

**STANDARD REALTY & DEVELOPMENT CORPORATION,
PETITIONER, VS. OFFICE OF THE PRESIDENT, THE HON. SECRETARY
OF THE DEPARTMENT OF AGRARIAN REFORM, THE REGIONAL
DIRECTOR, DAR REGION IV...**

Ponente: BATO, JR., J.

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BATO, JR., J.:

Assailed in this Petition for Review[1] under Rule 43 of the Rules of Court is the 12 December 2013 Decision[2] of the Office of the President in O.P. Case No. 09-B-049.

At the center of the controversy are forty (40) parcels of land with a total area of 20.116 hectares located in San Jose, Antipolo City, all registered in the name of Standard Realty and Development Corporation under TCT Nos. 40729 to 40768.

On 08 August 2003, the above parcels of land were placed under the coverage of the Comprehensive Agrarian Reform Program (CARP). A Notice of Coverage of even date was sent by Efren E. de Jesus, the Municipal Agrarian Reform Officer (MARO), by registered mail to the petitioner's President. A copy thereof was likewise delivered thru personal service to the petitioner, which was received by a certain Lizel Arandia.

On 04 October 2005, an Invitation Letter to Conduct Field Investigation was issued. The same was likewise sent to the petitioner's President via registered mail.

On 17 October 2005, the investigating team of the Department of Agrarian Reform (DAR) conducted an ocular inspection over the subject landholdings. Present during the ocular inspection were two (2) representatives of Atty. Stephen David, counsel of the petitioner. It was found out that the landholdings were planted by the farmer-occupants with different types of fruit bearing trees. Moreover, the farmer-occupants had already built their respective houses/huts therein.

On 30 November 2005, petitioner filed a Protest[3] with the Regional Director, Department of Agrarian Reform Regional Office IV-A, praying for the lifting of the Notice of Coverage based on the following grounds: 1) it never received a Notice of Coverage; 2) the subject landholdings are exempt from CARP coverage since the slope thereof is more than 18 percent; and 3) the same are undeveloped parcels of land, idle, vacant and untenanted.

By Order[4] dated 10 May 2006, DAR Regional Director Dominador B. Andres denied petitioner's Protest. He ruled that the same was filed beyond the 60-day period reckoned from its receipt of the Notice of Coverage. The dispositive portion of his Order reads:

“WHEREFORE, premises considered an Order is hereby issued:

- DENYING the instant protest on CARP coverage for failure to file the protest within the reglementary period prescribed by law;

- DIRECTING the PARO and the MARO to place the subject landholding under CARP subject to the retention

right of the landowner under Section 6 of RA 6657.

SO ORDERED.”[5]

Petitioner then filed a Motion for Reconsideration,[6] which was denied by DAR Regional Director Dominador B. Andres in a Resolution[7] dated 03 July 2006.

Aggrieved, petitioner appealed to the DAR Secretary. His appeal was, however, denied by then DAR Secretary Nasser C. Pangandaman in an Order[8] dated 26 November 2008. The then Secretary agreed with the findings of the Regional Director that petitioner validly received the Notice of Coverage dated 08 August 2003. Its Protest filed only on 30 November 2005 was therefore filed beyond the 60-day period. Moreover, petitioner’s contention that the subject landholdings have a slope of more than 18% and undeveloped cannot be given credence in view of the Investigation Report of the DAR Legal Officer that the same have fruit bearing trees planted by its occupants.

Undeterred, petitioner appealed to the Office of the President. Aside from the issues that it had previously raised before the DAR, petitioner argued that the Order placing its properties under CARP coverage is invalid since the Notice of Coverage was not posted in a conspicuous place in the municipal building and barangay hall of the place where the properties are located.

On 12 December 2013, the Office of the President rendered the assailed Decision[9] affirming in toto the findings of the DAR Secretary.

Hence, petitioner filed the instant petition for review based on the following grounds:

“(FIRST GROUND)

THE ORDER PLACING THE PROPERTIES OF STANDARD UNDER CARP IS NULL AND VOID FOR LACK OF JURISDICTION AND DUE PROCESS

(SECOND GROUND)

THE ORDER PLACING THE PROPERTIES OF STANDARD UNDER THE COVERAGE OF CARP IS VOID FOR LACK OF POSTING OF THE REQUIRED NOTICE

(THIRD GROUND)

CONTRARY TO THE FINDINGS OF THE OFFICE OF THE PRESIDENT, THE PROTEST OF STANDARD WAS TIMELY FILED AND HAS NOT YET PRESCRIBED

(FOURTH GROUND)

THE LANDHOLING (sic) OF STANDARD IS UNQUESTIONABLY OUTSIDE THE COVERAGE OF CARP”[10]

In sum, petitioner reiterates the arguments that it had raised before the DAR Regional Director, DAR Secretary and Office of the President, that: 1) its Protest was filed within the reglementary period; 2) it was denied due process since it did not properly receive the Notice of Coverage; and 3) the subject parcels of land are not covered by CARP since the same have slopes of more than eighteen percent (18%). Additionally, petitioner contends that the Notice of Coverage was not posted in a conspicuous place in the municipal building and barangay hall of the place where the properties are located, as required under Section 16(a) of RA 6657.

In its Comment,[11] the Office of the Solicitor General, in behalf of all the public respondents, maintains that petitioner was duly served with the Notice of Coverage, its protest was filed beyond the reglementary period and that the subject landholdings are not exempt from CARP coverage.

The petition is bereft of merit.

The first and third issues shall be discussed jointly as the same are interrelated.

Section 13.2 of DAR Administrative Order No. 03-03[12] provides the reglementary period within which the petitioner can file a protest, to wit:

“13.2. After issuance of notice of coverage — x x x Only the real-party-in-interest may file a protest/opposition or petition to lift CARP coverage and may only do so within sixty (60) calendar days from receipt of the notice of coverage; a protesting party who receives the notice of coverage by newspaper publication shall file his protest/opposition/petition within sixty (60) calendar days from publication date; failure to file the same within the period shall merit outright dismissal of the case.”

In the present case, petitioner cannot claim that it was denied due process. Records reveal that a Notice of Coverage dated 08 August 2003 was sent to the petitioner’s President via registered mail as evidenced by the return card/registered receipt number 2767.[13] Another copy was served via personal service to petitioner’s address, which was received by a certain Lizel Arandia.[14] While petitioner insists that Lizel Arandia is not a corporate officer authorized to receive the Notice of Coverage, it does not deny receipt of the Notice of Coverage sent through registered mail. Thus, petitioner failed to rebut the legal presumption that the registry return of the registered mail as having been received is prima facie proof of the facts indicated therein.[15] Therefore, petitioner’s Protest filed on 30 November 2005 or about two (2) years from its receipt of the Notice of Coverage was clearly filed beyond the 60-day reglementary period.

The Court need not belabor itself with the second issue raised by the petitioner. The alleged lack of posting of the Notice of Coverage was raised for the first time by the petitioner during its appeal before the Office of the President. It is well-settled that no question will be entertained on appeal unless it has been raised in the proceedings below. Points of law, theories, issues and arguments not brought to the attention of the lower court, administrative agency or quasi-judicial body, need not be considered by the reviewing court, as they cannot be raised for the first time at that late stage. Basic considerations of fairness and due process impel this rule. Any issue raised for the first time on appeal is barred by estoppel.[16]

Anent the last issue, it is worthy to note that the general policy under the Comprehensive Agrarian Reform Law (CARL) is to cover as much lands suitable for agriculture as possible.[17] Section 4 of R.A. No. 6657 states that the CARL shall cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands. As to what constitutes agricultural land, it is referred to as a land devoted to agricultural activity as defined in the Act and not classified as mineral, forest, residential, commercial or industrial land.[18] Section 10 of R.A. No. 6657 states, among others, that all lands with eighteen percent (18%) slope and over, except those already developed shall be exempt from the coverage of CARL.

In the instant case, while a portion of the subject parcels of land may have a slope of 18%, the same is not a reason to exempt the parcels of land from CARP coverage. As per Investigation Report and Recommendation of DAR Legal Officer III Cleofe S. Eder-Cana, the subject parcels of land are fully developed and planted with various fruit-bearing trees and with houses constructed thereon by the farmer-occupants.[19]

In sum, the petitioner utterly failed to show a justifiable reason to warrant the reversal of the Decision of the DAR Secretary, as affirmed by the Office of the President. Factual findings of the DAR Secretary, who, by reason of his official position, has acquired expertise in specific matters within his jurisdiction, deserve full respect and, without justifiable reason, ought not to be altered, modified, or reversed.[20]

WHEREFORE, the instant petition is DENIED for lack of merit. The assailed 12 December 2013 Decision of the Office of the President in O.P. Case No. 09-B-049 is hereby AFFIRMED.

SO ORDERED.

Barrios, and Diy, JJ., concur.

[1] Rollo, pp. 129-144.

[2] Rollo, pp. 88-89.

[3] Rollo, pp. 33-39.

[4] Rollo, pp. 40-42.

[5] Order, p. 3; Rollo, p. 42.

[6] Rollo, pp. 43-50.

[7] Rollo, pp. 51-52.

[8] Rollo, pp. 57-61.

[9] Rollo, pp. 88-89.

[10] Amended Petition, pp. 5-6; Rollo, pp. 133-134.

[11] Rollo, pp. 158-168.

[12] 2003 Rules for Agrarian Law Implementation Cases.

[13] Order dated 10 May 2006, p. 2; Rollo, p. 41.

[14] Id.

[15] Genuino Ice Company, Inc. vs. Magpantay, G.R. No. 147790, June 27, 2006.

[16] S.C. Megaworld Construction vs. Parada, G.R. No. 183804, September 11, 2013.

[17] DAR Adm. Order No. 13, Series of 1990; cited in DAR vs. DECS, G.R. No. 158228, March 23, 2004.

[18] Natalia Realty Inc. and Estate Developers and Investors Corp. vs. DAR, G.R. No. 103302, August 12, 1993.

[19] Order dated November 26, 2008, p. 4; Rollo, p. 60.

[20] Sebastian vs. Morales, G.R. No. 141116, 17 February 2003.

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