

**NATALIA REALTY, INC., AND ESTATE DEVELOPERS AND INVESTORS CORP., PETITIONERS, VS. DEPARTMENT OF AGRARIAN REFORM, SEC. BENJAMIN T. LEONG AND DIR. WILFREDO LEANO, DAR-REGION IV, R...***G.R. No. 103302. August 12, 1993*

Ponente: BELLOSILLO, J.

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Are lands already classified for residential, commercial or industrial use, as approved by the Housing and Land Use Regulatory Board and its precursor agencies[1] prior to 15 June 1988,[2] covered by R.A. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988? This is the pivotal issue in this petition for certiorari, assailing the Notice of Coverage[3] of the Department of Agrarian Reform over parcels of land already reserved as townsite areas before the enactment of the law.

Petitioner Natalia Realty, Inc. (NATALIA, for brevity) is the owner of three (3) contiguous parcels of land located in Banaba, Antipolo, Rizal, with areas of 120.9793 hectares, 1,3205 hectares and 2,7080 hectares, or a total of 125,0078 hectares, and embraced in Transfer Certificate of Title No. 31527 of the Register of Deeds of the Province of Rizal.

On 18 April 1979, Presidential Proclamation No. 1637 set aside 20,312 hectares of land located in the Municipalities of Antipolo, San Mateo and Montalban as townsite areas to absorb the population overspill in the metropolis which were designated as the Lungsod Silangan Townsite. The NATALIA properties are situated within the areas proclaimed as townsite reservation.

Since private landowners were allowed to develop their properties into low-cost housing subdivisions within the reservation, petitioner Estate Developers and Investors Corporation (EDIC, for brevity), as developer of NATALIA properties, applied for and was granted preliminary approval and locational clearances by the Human Settlements Regulatory Commission. The necessary permit for Phase I of the subdivision project, which consisted of 13,2371 hectares, was issued sometime in 1982;[4] for Phase II, with an area of 80,0000 hectares, on 13 October 1983;[5] and for Phase III, which consisted of the remaining 31,7707 hectares, on 25 April 1986.[6] Petitioners were likewise issued development permits[7] after complying with the requirements. Thus the NATALIA properties later became the Antipolo Hills Subdivision.

On 15 June 1988, R.A. 6657, otherwise known as the "Comprehensive Agrarian Reform Law of 1988" (CARL, for brevity), went into effect. Conformably therewith, respondent Department of Agrarian Reform (DAR, for brevity), through its Municipal Agrarian Reform Officer, issued on 22 November 1990 a Notice of Coverage on the undeveloped portions of the Antipolo Hills Subdivision which consisted of roughly 90,3307 hectares. NATALIA immediately registered its objection to the Notice of Coverage.

EDIC also protested to respondent Director Wilfredo Leano of the DAR Region IV Office and twice wrote him

requesting the cancellation of the Notice of Coverage.

On 17 January 1991, members of the Samahan ng Magsasaka sa Bundok Antipolo, Inc. (SAMBA, for brevity), filed a complaint against NATALIA and EDIC before the DAR Regional Adjudicator to restrain petitioners from developing areas under cultivation by SAMBA members.[8] The Regional Adjudicator temporarily restrained petitioners from proceeding with the development of the subdivision. Petitioners then moved to dismiss the complaint; it was denied. Instead, the Regional Adjudicator issued on 5 March 1991 a Writ of Preliminary Injunction.

Petitioners NATALIA and EDIC elevated their cause to the DAR Adjudication Board (DARAB); however, on 16 December 1991 the DARAB merely remanded the case to the Regional Adjudicator for further proceedings.[9]

In the interim, NATALIA wrote respondent Secretary of Agrarian Reform reiterating its request to set aside the Notice of Coverage. Neither respondent Secretary nor respondent Director took action on the protest-letters, thus compelling petitioners to institute this proceeding more than a year thereafter.

NATALIA and EDIC both impute grave abuse of discretion to respondent DAR for including undeveloped portions of the Antipolo Hills Subdivision within the coverage of the CARL. They argue that NATALIA properties already ceased to be agricultural lands when they were included in the areas reserved by presidential fiat for townsite reservation.

Public respondents through the Office of the Solicitor General dispute this contention. They maintain that the permits granted petitioners were not valid and binding because they did not comply with the implementing Standards, Rules and Regulations of P.D. 957, otherwise known as "The Subdivision and Condominium Buyers' Protective Decree," in that no application for conversion of the NATALIA lands from agricultural to residential was ever filed with the DAR. In other words, there was no valid conversion. Moreover, public respondents allege that the instant petition was prematurely filed because the case instituted by SAMBA against petitioners before the DAR Regional Adjudicator has not yet terminated. Respondents conclude, as a consequence, that petitioners failed to fully exhaust administrative remedies available to them before coming to court.

The petition is impressed with merit. A cursory reading of the Preliminary Approval and Locational Clearances as well as the Development Permits granted petitioners for Phases I, II and III of the Antipolo Hills Subdivision reveals that contrary to the claim of public respondents, petitioners NATALIA and EDIC did in fact comply with all the requirements of law.

Petitioners first secured favorable recommendations from the Lungsod Silangan Development Corporation, the agency tasked to oversee the implementation of the development of the townsite reservation, before applying for the necessary permits from the Human Settlements Regulatory Commission.[10] And, in all permits granted to petitioners, the Commission stated invariably therein that the applications were in "conformance"[11] or "conformity"[12] or "conforming"[13] with the implementing Standards, Rules and Regulations of P.D. 957. Hence, the argument of public respondents that not all of the requirements were complied with cannot be sustained.

As a matter of fact, there was even no need for petitioners to secure a clearance or prior approval from DAR. The NATALIA properties were within the areas set aside for the Lungsod Silangan Reservation. Since Presidential Proclamation No. 1637 created the townsite reservation for the purpose of providing additional housing to the burgeoning population of Metro Manila, it in effect converted for residential use what were erstwhile agricultural lands provided all requisites were met. And, in the case at bar, there was compliance with all relevant rules and requirements. Even in their applications for the development of the Antipolo Hills Subdivision, the predecessor

agency of HLURB noted that petitioners NATALIA and EDIC complied with all the requirements prescribed by P.D. 957.

The implementing Standards, Rules and Regulations of P.D. 957 applied to all subdivisions and condominiums in general. On the other hand, Presidential Proclamation No. 1637 referred only to the Lungsod Silangan Reservation, which makes it a special law. It is a basic tenet in statutory construction that between a general law and a special law, the latter prevails.[14]

Interestingly, the Office of the Solicitor General does not contest the conversion of portions of the Antipolo Hills Subdivision which have already been developed.[15] Of course, this is contrary to its earlier position that there was no valid conversion. The applications for the developed and undeveloped portions of subject subdivision were similarly situated. Consequently, both did not need prior DAR approval.

We now determine whether such lands are covered by the CARL. Section 4 of R.A. 6657 provides 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 "land devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential, commercial or industrial land." [16] The deliberations of the Constitutional Commission confirm this limitation. "Agricultural lands" are only those lands which are "arable and suitable agricultural lands" and "do not include commercial industrial and residential lands." [17]

Based on the foregoing, it is clear that the undeveloped portions of the Antipolo Hills Subdivision cannot in any language be considered as "agricultural lands." These lots were intended for residential use. They ceased to be agricultural lands upon approval of their inclusion in the Lungsod Silangan Reservation. Even today, the areas in question continue to be developed as a low-cost housing subdivision, albeit at a snail's pace. This can readily be gleaned from the fact that SAMBA members even instituted an action to restrain petitioners from continuing with such development. The enormity of the resources needed for developing a subdivision may have delayed its completion but this does not detract from the fact that these lands are still residential lands and outside the ambit of the CARL.

Indeed, lands not devoted to agricultural activity are outside the coverage of CARL. These include lands previously converted to non-agricultural uses prior to the effectivity of CARL by government agencies other than respondent DAR. In its Revised Rules and Regulations Governing Conversion of Private Agricultural Lands to Non-Agricultural Uses, [18] DAR itself defined "agricultural land" thus -

"x x x Agricultural land refers to those devoted to agricultural activity as defined in R.A. 6657 and not classified as mineral or forest by the Department of Environment and Natural Resources (DENR) and its predecessor agencies, and not classified in town plans and zoning ordinances as approved by the Housing and Land Use Regulatory Board (HLURB) and its preceding competent authorities prior to 15 June 1988 for residential, commercial or industrial use."

Since the NATALIA lands were converted prior to 15 June 1988, respondent DAR is bound by such conversion. It was therefore error to include the undeveloped portions of the Antipolo Hills Subdivision within the coverage of CARL.

Be that as it may, the Secretary of Justice, responding to a query by the Secretary of Agrarian Reform, noted in an Opinion [19] that lands covered by Presidential Proclamation No. 1637, inter alia, of which the NATALIA lands are part, having been reserved for townsite purposes "to be developed as human settlements by the proper land and housing agency," are "not deemed 'agricultural lands' within the meaning and intent of Section 3 (c) of R.A. No. 6657." Not being deemed "agricultural lands," they are outside the coverage of CARL.

Anent the argument that there was failure to exhaust administrative remedies in the instant petition, suffice it to say that the issues raised in the case filed by SAMBA members differ from those of petitioners. The former involve possession; the latter, the propriety of including under the operation of CARL lands already converted for residential use prior to its effectivity.

Besides, petitioners were not supposed to wait until public respondents acted on their letter-protests, this after sitting it out for almost a year. Given the official indifference, which under the circumstances could have continued forever, petitioners had to act to assert and protect their interests.[20]

In fine, we rule for petitioners and hold that public respondents gravely abused their discretion in issuing the assailed Notice of Coverage dated 22 November 1990 of lands over which they no longer have jurisdiction.

WHEREFORE, the Petition for Certiorari is GRANTED. The Notice of Coverage of 22 November 1990 by virtue of which undeveloped portions of the Antipolo Hills Subdivision were placed under CARL coverage is hereby SET ASIDE.

**SO ORDERED.**

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Melo, Quiason, Puno, and Vitug, JJ., concur.

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[1] National Housing Authority and Human Settlements Regulatory Commission; see *C. T. Torres v. Hibionada*, G.R. No. 80916, 9 November 1990, 191 SCRA 268.

[2] Date of effectivity of R.A. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988.

[3] Annex "H", Petition; Rollo, p. 33.

[4] Annex "A", Petition; Rollo, p. 26.

[5] Annex "C", Petition; Rollo, p. 28.

[6] Annex "E", Petition; Rollo, p. 30.

[7] Annexes "B", "D" and "F", Petition; Rollo, pp. 27, 29 and 31.

[8] Complaint, p. 3; Rollo, p. 68.

[9] DARAB Resolution, 16 December 1991, p. 8; Rollo, p. 82.

[10] Renamed Housing and Land Use Regulatory Board (HLURB) per E.O. No. 90, dated 17 December 1986.

[11] Annexes "A" and "C", Petition; Rollo, pp. 26 and 28.

[12] Annex "B", Petition; Rollo, p. 27.

[13] Annexes "D" and "E", Petition; Rollo, pp. 29-30.

[14] *National Power Corporation v. Presiding Judge, RTC, Br. XXV*, G.R. No. 72477, 16 October 1990, 190 SCRA 477.

[15] Comment, p. 8; Rollo, p. 63.

[16] Sec. 3 (c), R.A. 6657.

[17] Luz Farms v. Secretary of the Department of Agrarian Reform, G.R. No. 86889, 4 December 1990, 192 SCRA 51, citing Record, CONCOM, 7 August 1986, Vol. III, p. 30.

[18] DAR Administrative Order No. 1, Series of 1990.

[19] Opinion No. 181, Series of 1990.

[20] Rocamora v. RTC-Cebu, Br. VIII, G.R No. 65037, 23 November 1988, 167 SCRA 615.

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