

ROBERTO CORDENILLO, PETITIONER, VS. HON. EXECUTIVE SECRETARY (OFFICE OF THE PRESIDENT), AND JOSE BOLIVAR, RESPONDENTS.

G.R. No. 115903. August 04, 1997

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

The nullification of two (2) Resolution promulgated by the Office of the President dated May 7, 1993[1] and June 9, 1994,[2] respectively, is sought by this petition, for the resolution ordered the Department of Agriculture and the Bureau of Fisheries and Aquatic Resources to process the fishpond lease application filed by private respondent Jose Bolivar covering a fishpond area of twenty (20) hectares, situated at Barrio Malag-it, Pontevedra, Capiz.

The following antecedent facts and proceedings are all undisputed:

1. Private respondent Jose Bolivar was granted by the Bureau of Forestry, now Bureau of Forest Development, on September 17, 1963, Nipa-Bacauan (NB) Permit No. 1897, covering 16.0 hectares in Pontevedra, Capiz, while [one] Julio de Jesus was issued by the defunct Philippine Fisheries Commission, now Bureau of Fisheries and Aquatic Resources (BFAR) Fishpond Permit No. 5423 on June 21, 1965, covering 35.0 hectares likewise located at Pontevedra, Capiz.

2. On August 13, 1963, petitioner Roberto Cordenillo filed with the Bureau of Lands, now Lands Management Bureau, a Miscellaneous Sales Application (MSA) over about 134.0 hectares in the same locality, which area included the areas under private respondent Jose Bolivar's NB Permit and Julio de Jesus' fishpond permit. Simultaneously, petitioner Roberto Cordenillo entered and occupied the area he applied for and, subsequently, constructed a fishpond on a ten (10)- hectare portion thereof. This ten (10)-hectare portion was later on found to be within the area under private respondent Jose Bolivar's NB Permit.

3. Both private respondents Jose Bolivar and Julio de Jesus filed protests against the MSA of petitioner Roberto Cordenillo. The protests were investigated and heard by the District Land Officer and District Forester of Roxas City and also by the Committee on Investigations of the then Department of Agriculture and Natural Resources (DANR). After the investigation and ocular inspection, said committee submitted its report on October 15, 1973, containing, among others, the following observation:

'1. That the area covered by the Nipa-Bacauan Permit No. 1897 of Jose Bolivar and the area covered by Fp.[No.] 5423 of Julio de Jesus are embraced and covered by the Miscellaneous lease application of Roberto Cordenillo.

2. That Roberto Cordenillo constructed a fishpond of approximately 10.0 hectares which is now fully developed and productive situated inside the Nipa-Bacauan permit of Jose Bolivar.

3. That Jose Bolivar and Julio de Jesus have updated their rentals. The Nipa-Bacauan permit of Jose Bolivar issued on September 17, 1963 to expire June 30, 1964 was, however, first extended on September 23, 1969; the Fp. No. 5423 of Julio de Jesus issued on June 21, 1965 was first extended on March 18, 1968.

4. There is no visible improvement in the area claimed by Julio de Jesus.
5. On September 17, 1963 the Bureau of Forestry issued a Nipa-Bacauan permit to Jose Bolivar but on November 6, 1964 it rejected the Nipa-Bacauan application of Roberto Cordenillo for lack of jurisdiction over the area.
6. That Roberto Cordenillo applied for a miscellaneous lease application with the Bureau of Lands and later also a N.B. permit with the Bureau of Forestry. When his application for N.B. permit with the Bureau of Forestry was rejected for lack of jurisdiction, he pursued his miscellaneous lease application with the Bureau of Lands.'

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4. Accordingly, then Undersecretary of DANR, Jose D. Drilon, Jr., after appropriate proceedings, issued an Order dated January 28, 1974, the dispositive portion of which reads as follows:

'WHEREFORE, in view of the foregoing, it is hereby ordered that:

1. The Nipa-Bacauan Permit No. 1897 issued in favor of Jose Bolivar covering approximately sixteen hectares be, as hereby it is, CANCELLED;
2. The Miscellaneous Lease Application of Roberto Cordenillo covering approximately 134 hectares be, as hereby it is, REJECTED.
3. Fishpond Permit No. 5423 issued in favor of Julio de Jesus be, as hereby it is, CANCELLED;
4. Roberto Cordenillo SECURE a fishpond lease agreement from the Bureau of Fisheries covering the area of approximately ten (10) hectares which he has developed as shown on the attached sketch;
5. The rest of the area applied by Roberto Cordenillo covered by his miscellaneous lease application which is suitable for fishpond purposes be RELEASED in favor of the Bureau of Fisheries for Disposition; and
6. Jose Bolivar be given PREFERENCE to apply with the Bureau of Fisheries for the adjoining area suitable for fishpond purposes covering an area of twenty (20) hectares.

The Bureau of Forest Development is hereby ADMONISHED for having renewed the Nipa-Bacauan Permit of Jose Bolivar even after it had previously declared itself as having no jurisdiction over the area in question, which area is a part of the Tinagong Dagat Bay. The same Office is enjoined to exercise more caution and due diligence in acting on similar cases in the future to avoid damage or prejudice to innocent parties affected by such action, in this case, Mr. Bolivar. To repair the damage Mr. Bolivar may have suffered from the erroneous action of that Bureau, it is hereby reiterated that special preference be given by the Office and other agencies of this Department concerned in securing for him a similar permit over any adjoining or neighboring area.

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5. Not satisfied, private respondent Jose Bolivar sought a reconsideration of the above-mentioned order by filing the requisite motion and memorandum, dated February 25 and March 21, 1974, respectively. On the basis thereof, the then Minister of Natural Resources Jose Leido, Jr., issued an Order dated March 31, 1980, modifying the aforesaid Order dated January 28, 1974 of Undersecretary Jose D. Drilon, Jr., the dispositive portion of which reads as follows:

'PREMISES CONSIDERED, the Order of the then Undersecretary of Agriculture and Natural Resources, dated January 28, 1974, is hereby modified in the sense that Fishpond Permit No. 5423 in the name of Julio de Jesus and the miscellaneous sales application of Roberto Cordenillo shall remain cancelled and rejected, respectively; that Roberto Cordenillo illegally occupied and developed a portion of the area covered by Nipa-Bacauan Permit No. 1897 of Jose Bolivar and, accordingly, Roberto Cordenillo shall vacate said area occupied and all improvements

introduced and found therein are forfeited in favor of the government and that Jose Bolivar is given preference over the area covered by his Nipa-Bacauan Permit No. 1897.

This Order shall be immediately executory.

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6. Petitioner Roberto Cordenillo filed a motion for reconsideration of the aforementioned Order dated March 31, 1980 of Minister Jose Leido, Jr., and the same motion was denied on September 4, 1980.

7. Accordingly, on September 25, 1980, petitioner Roberto Cordenillo appealed to the Office of the President the aforementioned Order dated March 31, 1980 of Minister Jose Leido, Jr.

8. On October 29, 1981, the Office of the President, through then Acting Presidential Executive Assistant Joaquin T. Venus, Jr., rendered a Decision, the dispositive portion of which reads as follows:

‘WHEREFORE, THE Order of the Minister of Natural Resources dated March 31, 1980 is hereby set aside. In lieu thereof, the Order of then Undersecretary of Agriculture and Natural Resources Jose D. Drilon (sic), dated January 28, 1974, directing, inter alia that Roberto Cordenillo secure a fishpond lease agreement from the Bureau of Fisheries covering the area of approximately ten (10) hectare (sic) which he has developed, is hereby reinstated.

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9. On november 19, 1981, private respondent JOSE bolivar moved to reconsider the aforementioned Decision dated October 29, 1981. In a Resolution dated March 19, 1982, the Office of the President resolved to dismiss private respondent Jose Bolivar’s motion for reconsideration and declared subject Decision dated October 29, 1981 as final.

10. Pursuant to the above-mentioned Resolution dated March 19, 1982 of the Office of the President, petitioner Roberto Cordenillo filed his Fishpond Application over an area of approximately ten (10) hectares on October 2, 1985, while private respondent Jose Bolivar filed the Fishpond Application covering the adjoining area of twenty (20) hectares on August 31, 1985.

11. Subsequently, or on October 8, 1985, petitioner Roberto Cordenillo sought clarification from the Office of the President on the correct or proper interpretation of its Decision dated October 29, 1981, specifically as to wether said Decision reinstated the whole dispositive portion of the Order of then Undersecretary of Agriculture and Natural Resources Jose D. Drilon, Jr. dated January 28, 1974, or only that part thereof, directing petitioner Roberto Cordenillo to secure a fishpond lease agreement from the Bureau of Fisheries covering the area approximately ten (10) hectares developed by him as stated in the subject Decision.

12. In reply, the Office of the President informed petitioner Roberto Cordenillo in its letter of April 2, 1986, that ‘x x x the Decision of this Office in O.P. Case No. 1836 dated October 29, 1985 (sic), has the effect of reinstating the Order of then Undersecretary of Agriculture and Natural Resources Jose Drilon (sic), dated January 28, 1974, only insofar as it directed Roberto Cordenillo to secure a fishpond lease agreement from the Bureau of Fisheries covering the area of approximately ten (10) hectares which he has developed.’

13. Meanwhile, it appearing that the BFAR has not acted upon his fishpond application for the twenty (20)-hectare area mentioned in the Drilon Order dated January 28, 1974, which was reinstated in the O.P. Decision of October 29, 1981, and considering further that a portion thereof still remains in the possession of petitioner Roberto Cordenillo, private respondent Jose Bolivar filed with the Office of the President the instant

'Ex-PARTE MOTION (For Issuance of the Writ of Implementation)' on March 17, 1988, praying for the issuance of an Order directing BFAR and the Department of Agriculture to issue to him (private respondent Jose Bolivar) a twenty-five (25)-year fishpond lease agreement over an area of twenty (20) hectares adjoining the ten (10) hectares shown in the sketch to the Drilon Order of January 28, 1974, and the Capiz P.C. Provincial Command to clear the aforesaid area of occupants and to deliver the physical possession thereof to private respondent Jose Bolivar.

14. In a 'SUPPLEMENTAL TO EX-PARTE MOTION (for the Issuance of an Order of Implementation),' dated June 2, 1988, private respondent Jose Bolivar, through counsel, adverted to the Memorandum of Fisheries Regional Director Matias A. Guieb dated October 29, 1985, finding petitioner Roberto Cordenillo to have acted in bad faith when he occupied the entire area of 47.9852 hectares covered by his rejected Fishpond Permit Application No. 36939 without the benefit of a lease agreement and with full knowledge of the pending controversy over the said area before the DANR. Additionally, private respondent Jose Bolivar prayed for a declaration that the entire decretal portion of the Drilon Order dated January 28, 1974, was reinstated or revived by the O.P. Decision dated October 29, 1981."^[3]

It is significant to point out at this juncture that prior to private respondent Bolivar's aforementioned twin Motions dated March 17, 1988 and June 2, 1988 praying for the issuance of a fishpond lease agreement covering the twenty (20) hectares adjoining petitioner Cordenillo's ten (10) hectares of fishpond, and for a categorical declaration that the entire decretal portion of Drilon Order dated January 28, 1974, was reinstated or revived by the Decision dated October 29, 1981 as rendered by Acting Presidential Executive Assistant Joaquin T. Venus, Jr. of the Office of the President, the Secretary and the Regional Director of the Department of Agriculture had already earlier made official issuances to the effect that the decretal portion of the Drilon Order dated January 28, 1974 was and should be deemed, reinstated or revived by the Venus Decision dated October 29, 1981.

In fact, these Department of Agriculture issuances, namely, two (2) Memoranda dated October 1, 1986 and February 28, 1989, respectively, issued by the Regional Director and a 4th Indorsement dated July 12, 1988 issued by the Secretary, both of said department, were the subject of a Petition for Injunction dated May 4, 1989 filed by petitioner before the Regional Trial Court of Roxas City.^[4] In that petition, the trial court was asked to restrain the Secretary of Agriculture, the Regional Director, and the Provincial Agricultural Officer of Capiz from implementing the aforesaid Memoranda and 4th Indorsement on the ground that "the approval by respondent Secretary of the application for issuance of a fishpond lease agreement in favor of the private respondent [covering] the subject 20-hectare fishpond would enable private respondent to appropriate the subject 20-hectare fishpond, thus depriving petitioner of the [land] and its improvements thereon without due process of law and would therefore unjustly enrich the private respondent at the expense of another."^[5]

The trial court denied the Petition for Injunction in an Order dated June 8, 1989. Aggrieved by said Order of denial, petitioner filed with this court a Petition for Certiorari^[6] docketed as G.R. No. 88814 seeking the nullification and setting aside of said Order of denial and the issuance of a temporary restraining order and/or a writ of preliminary injunction restraining the Secretary of Agriculture, the Regional Director and the Provincial Agricultural Officer of Capiz, all of the Department of Agriculture, from implementing or in any way enforcing the Venus Decision dated October 29, 1981 which, in turn, reinstated and/or revived the entire decretal portion of the Drilon Order dated January 28, 1974.

In a Resolution dated July 19, 1989,^[7] we resolved to refer G.R. No. 88814 to the Court of Appeals which has concurrent jurisdiction over the subject matter of the petition. Thus, subsequently, the same petition was docketed as CA-G.R. SP No. 18397.

On August 14, 1989, the Court of Appeals dismissed said petition, ruling as it did that the therein assailed issuances rendered by the various officials of the Department of Agriculture:

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‘[do] not in any way show that the Bureau of Fisheries had intended to dispossess [petitioner] Cordenillo of the ten-hectare portion which he had already allegedly cultivated. The Memorandum Order concerned merely advised Bolivar to apply for the adjoining area suitable for fishpond purposes covering twenty (20) hectares, and for Cordenillo to file and submit all the requirements for 25-year lease agreement over the area of 11.0916 hectares x x x and likewise, to apply over the area of 27.9852 hectares if he so desire (sic) which was declared vacant and open to any qualified applicants who shall also pay the appraised value of improvements found therein, if there is any.

There is nothing yet, as of this point in time, to persuade this Court to believe that the ten-hectare fishpond which Cordenillo has developed, is to be awarded by the Bureau of Fisheries to Bolivar. Until such time that the identities of the areas respectively applied for by Cordenillo and Bolivar shall have been delineated by the Bureau of Fisheries, it would be premature for petitioner to come to court to seek for injunctive relief. x x x.’

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In the light of the extent of trouble, as shown above, to which petitioner Cordenillo went in order to challenge and invalidate any and all official government declarations as to the efficacy of the Drilon Order dated January 28, 1974 which sanctioned and even favorably endorsed the issuance of a fishpond lease in favor of private respondent Bolivar over twenty (20) hectares of land adjoining the ten (10) hectares adjudicated to petitioner under the same Drilon Order, petitioner Cordenillo, ever true to form, did not lose time in seeking the judicial nullification of the twin Resolutions issued by the Office of the President dated May 7, 1993 and June 9, 1994, respectively, which granted private respondent’s ‘EX-PARTE MOTION (for Issuance of the Writ of Implementation)’ and ordered “the Department of Agriculture and the Bureau of Fisheries and Aquatic Resources to forthwith process and give due course to the fishpond lease application filed by Jose Bolivar covering twenty (20) hectares s situated at Barrio Malag-it, Pontevedra, Capiz.”[9]

The Office of the President, through Chief Presidential Legal Counsel Antonio T. Carpio, resolved the aforesaid Ex-Parte Motion of private respondent Bolivar, in this wise:

“After a close and perceptive study, this Office is persuaded to uphold x x x Bolivar’s view that the Decision of this Office dated October 29, 1981 [i.e., the Venus Decision] reinstated the entire dispositive portion of the Drilon [sic] order of January 28, 1974, not just that portion thereof (par. 4) advising Cordenillo to secure a fishpond lease agreement from the Bureau of Fisheries covering the area of approximately ten (10) hectares he has developed. It is noteworthy that, long before the rendition by this Office on April 2, 1986 of the clarificatory opinion requested by Cordenillo on the effect of its Decision on the Drilon [sic] order, Fisheries Regional Director Matias A. Guieb had shared the view of Bolivar’s counsel that what was reinstated by the O.P. Decision of October 29, 1981, was the entire portion of the Drillon [sic] order. Thus, in his memorandum for the BFAR Director, dated August 5, 1985, Director Guieb stated in part:

‘This Office share[s] the view of the Counsel of Jose Bolivar that what was reinstated was the Order dated January 28, 1974, not a portion thereof.

This view is also stated in a Memorandum dated 1983-12-09 of the Director of Fisheries and Aquatic Resources quoted hereunder:

Take note that in an Order dated January 28, 1974 of the then Undersecretary of Agriculture and Natural Resources involving an area located in Pontevedra, Capiz, applicant Roberto Cordenillo was awarded an area of 10.0 hectares and a certain Jose Bolivar was given preference to apply with this Office for the adjoining area of 20.0 hectares. This Order was affirmed in an Order issued by the Office of the President dated October 28, 1981.

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The Director of Lands likewise, in his letter dated May 21, 1985 to the Director of Fisheries, stated:

In reply, please be informed that this Office [poses] no objection to the disposition of the land aforesaid through lease for fishpond purposes considering the fact that the miscellaneous lease application of Roberto Cordenillo therefor has already been rejected by the then Secretary of Agriculture and Natural Resources in Order dated January 28, 1974 which was reiterated by Malacañang in its resolution dated March 19, 1982 after several incidents. x x x

From the foregoing, it could be deduced and safely conclude[d] that the Decision of the Office of the President dated October 28, 1981 had set aside the Order of the Minister of Natural Resources dated March 31, 1980 in its entirety and reinstated fully the order of the Undersecretary of Agriculture and Natural Resources dated January 28, 1974.'

Moreover, as may be immediately discerned from the body of O.P. Decision dated October 29, 1981 [i.e., the Venus Decision], what was resolved therein was solely the issue of who between the contending parties is entitled to the award of the 10-hectare portion of the subject fishpond area, nothing more or less. This is as it should be, because that was the lone and only issue raised by Cordenillo in his appeal from the MNR Order of March 31, 1980. If said Decision intended to revive only that particular portion of the Drillon [sic] order relative to the award of the 10 hectares, it should have categorically and emphatically ruled on the right, or rather the disqualification, of Bolivar to acquire the 20 hectares decreed in the Drillon [sic] order. Strangely enough though, said Decision was conspicuously silent on this point. Withal, it is hard to believe that such an important matter, which the subject Decision had discarded and cast into oblivion, despite the precise and categoric[al] language of the dispositive portion of the Drillon [sic] order, would have been left in the said Decision to mere implication. Having opted not to discuss or mention even in passing the issue of Bolivar's preferential right to apply for the 20-hectare area, the Decision in question must be taken, in effect, to have affirmed the same and those embodied in paragraphs 1, 2, 3, and 5 of the decretal portion of the Drillon [sic] order. Consequently, the matter of Bolivar's right to the award of the 20 hectares not having been controverted or traversed in the subject Decision, the same must be deemed to have been definitively settled or set to rest, along with the other issues discussed in the dispositive portion of the Drillon [sic] order. This must be so, for the Decision of this Office of October 29, 1981, retroacts to the date of the Drillon [sic] order of January 28, 1974. And, having acquired the character of finality as of March 19, 1982, said Decision had, for all legal intents and purposes, concluded the legality, among others, of the conditional award to Bolivar of the 20 hectares and precludes the subsequent determination of the very same issue.

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It may be apropos to mention that Cordenillo did not appeal the Drillon [sic] order. Hence, in so far as he is concerned, said order had preclusive effect, not only [as to] that portion giving him preferential right to apply by lease for the 10-hectare fishpond area, but the entirety thereof.

This Office also notes that, in his 'Appeal Memorandum' filed with this Office, dated September 23, 1980, Cordenillo prayed for the reinstatement of the entire Drillon [sic] order of January 28, 1974. Likewise, in his subsequent 'Memorandum' dated April 20, 1981, Cordenillo asked this Office to uphold the Drillon [sic] order, without qualification or condition whatsoever. Thus, there was no need for Cordenillo to seek clarification on the effect of the October 29, 1981 Decision of this Office on the Drillon [sic] order of January 28, 1974. For its part, this Office cannot be faulted for rendering the aforementioned interpretative ruling, considering that the only issue raised before it at that time was who between Bolivar and Cordenillo is entitled to the 10 hectares in question.

For this Office to adhere to its previous interpretation that its Decision of October 29, 1981 did not revive the

entire Drillon [sic] order of January 28, 1974, would enable Cordenillo to apply not only for the 20 hectares awarded to Bolivar but also the rest of the 134 hectares covered by his rejected miscellaneous sales application. This, to say the least, is in accord neither with justice nor equity which this Office will not countenance.

Upon the foregoing premises, this Office finds, and so holds, that its Decision of October 29, 1981, reinstated and revived the entire dispositive portion of the order of then DANR Secretary Jose D. Drillon [sic] dated January 28, 1974, in DANR Case No. 3909.”[10]

On May 29, 1993, petitioner filed a Motion for Reconsideration of the aforementioned Resolution. Said Motion was anchored on the following grounds: (1) that the decision rendered by the Office of the President dated April 2, 1986 whereby said office clarified that the Drillon Order was reinstated “only insofar as it directed Roberto Cordenillo to secure a fishpond lease agreement from the Bureau of Fisheries covering the area of approximately ten (10) hectares which he has developed,” had already become final and executory, thus rendering null and void for being an issuance tainted with grave abuse of discretion, the aforementioned Resolution dated May 7, 1993, which in effect reverses aforesaid April 2, 1986 decision; (2) that the aforementioned Resolution was issued in violation of petitioner’s right to due process; and (3) that the aforementioned Resolution was not supported by the true facts and the laws and jurisprudence of the case.

In the Resolution dated June 9, 1994, the Office of the President denied petitioner’s Motion for Reconsideration in this manner:

“Anent the first ground, we are not persuaded by movant’s argument that the Resolution of this Office, dated May 7, 1993, is null and void ‘for lack of jurisdiction and a grave discretion amounting to lack of jurisdiction,’ allegedly because its clarificatory Order/Decision, of April 2, 1986 had already become final and executory. Being merely interpretative of the main Decision in O.P. Case No. 1863, said clarificatory Order/Decision, assuming the same to have acquired the character of finality, cannot affect, much less divest x x x Bolivar of his preferential right acquired under the Drillon [sic] Order of January 28, 1974, which was revived in its entirety by O.P. Decision dated October 29, 1981, to apply for the adjoining area suitable for fishpond purposes covering twenty (20) hectares. This is only as it should be, considering that movant did not appeal the Drillon [sic] order directing, among others, that he secure from the then Bureau of Fisheries a fishpond lease agreement over the 10-hectare fishpond area developed by him.

Moreover, Bolivar’s right to apply for the adjoining area of twenty (20) hectares suitable for fishpond purposes had long become vested with the finality of our Decision of October 29, 1981 on March 19, 1982, which retroacts to the date of the Drillon [sic] order dated January 28, 1974. Indeed, to sustain movant’s argument would mean that this miscellaneous lease application over the 134 hectares that was already rejected in the Drillon [sic] order remains valid and could be pursued by him. Certainly, this is far removed from the intention of this Office when it rendered its October 29, 1981 Decision wherein the only issue raised by movant and resolved therein was his right to lease the 10-hectare area.

Concerning the second ground, this Office finds itself hard put to concede validity to movant’s contention that he was denied due process because he was not afforded opportunity to be heard vis-à-vis [private respondent’s] x x x ‘EX-PARTE MOTION (For Issuance of the Writ of Implementation)’, in view of the instant motion interposed by movant seeking reconsideration of the questioned Resolution. As held by the Supreme Court in the case of Maglasang vs. Ople x x x:

‘x x x As far back as 1935, it has already been settled doctrine that a plea of denial of procedural due process does not lie where a defect consisting of an absence of notice of hearing was thereafter cured by the alleged aggrieved party having had the opportunity to be heard on a motion for reconsideration. What the law prohibits is not the absence of previous notice, but the absolute absence thereof and lack of opportunity to be heard. There is then no occasion to impute deprivation of property without due process where the adverse party was heard on a motion for

reconsideration constituting as it does sufficient opportunity for him to inform the Tribunal concerned of his side of the controversy. x x x [W]hat due process contemplates is freedom from arbitrariness and what it requires is fairness or justice, the substance rather than the form being paramount, the conclusion being that the hearing on a motion for reconsideration meets the strict requirement of the process.’

Lastly, for obvious lack of merit, this Office does not deem it necessary to pass upon the third ground invoked by movant, said Resolution of May 7, 1993 being decidedly congruent with the factual situation and in full accord with settled jurisprudence and legal principles.”[11]

Undaunted, petitioner simply refuses to concede the futility of his baseless postulations; hence, the instant petition, which, needless to say, is totally devoid of merit.

Stripped of non-essentials, petitioner Cordenillo’s singular and all-consuming cause is to, at all costs, keep possession of the twenty-hectare fishpond over which private respondent Bolivar was granted lease preference under the January 28, 1974 Drilon Order and which fishpond land petitioner has absolutely no right to claim, much less, occupy.

Petitioner does not deny that “said 20-hectares area is included in the 47.9852 hectares covered by the petitioner ‘s x x x [miscellaneous sales] application and he has been in actual continuous possession thereof since [sic] 1963 during which he developed it into a productive fishpond.”[12] The records clearly show, however, that the overlapping of fishpond area is to be blamed on petitioner himself, having included in his application dated August 13, 1963 the area already subject of private respondent Bolivar’s Nipa-Bacauan Permit granted him by the Bureau of Forest Development on September 17, 1963. When petitioner thus occupied said area and built improvements thereon, he did so with full knowledge of private respondent Bolivar’s existing Nipa-Bacauan Permit covering the same area and the protest filed by the latter against the Miscellaneous Sales Application of petitioner.

That protest filed by private respondent Bolivar was resolved with the issuance of the so-called Drilon Order dated January 28, 1974. In that order, Jose D. Drilon, Jr., the then Undersecretary of the then Department of Agriculture and Natural Resources (DANR), categorically rejected and correspondingly denied, petitioner’s Miscellaneous Sales Application. The only concession granted petitioner under said order was a fishpond lease agreement over some ten (10) hectares developed by petitioner into viable fishponds, which 10-hectare area was definitely identified in a sketch annexed to the Drilon Order. Apparently, petitioner was granted such 10-hectare area in recognition of his subsisting occupation thereof and the improvements thereon built by petitioner. For his part, private respondent Bolivar was unequivocally declared a preferred and first priority lease applicant for the 20-hectare area adjoining petitioner’s ten (10) hectares.

Private respondent Bolivar, at first, did not agree with the Drilon Order. Thus, he filed a Motion for Reconsideration of said order. Acting on said motion, the then Minister of Natural Resources Jose Leido, Jr. issued an Order additionally declaring petitioner Cordenillo to have illegally occupied and developed a portion of the area covered by the Nipa-Bacauan Permit of private respondent Bolivar.

Finding such declaration extremely prejudicial to his interests, considering that he had already invested a substantial amount of money in the form of improvements on a portion of the area covered by private respondent Bolivar’s Nipa-Bacauan Permit, petitioner Cordenillo appealed to the Office of the President.

The Office of the President, through then Acting Presidential Executive Assistant Joaquin T. Venus, Jr., rendered a decision setting aside the Leido Order and reinstating the Drilon Order. While the reinstatement of the Drilon Order was made in general, sweeping terms, Venus particularly directed “that Roberto Cordenillo secure a fishpond lease agreement from the Bureau of Fisheries covering the area of approximately ten (10) hectare [sic]

which he has developed.”

In effect, Venus Order deleted the Leido declaration that petitioner Cordenillo illegally occupied a portion of the area covered by private respondent Bolivar’s Nipa-Bacauan Permit. Thus, Bolivar moved for the reconsideration of the Venus Order. Said motion, however, was dismissed, and the Venus Order dated October 29, 1981, which reinstated the Drilon Order, was declared final in a Resolution dated March 19, 1982.

With such a declaration of finality of the Venus Order reinstating the Drilon Order, this dispute between petitioner Cordenillo and private respondent Bolivar involving overlapping fishpond area, beginning with Cordenillo’s intrusion in September, 1963, into a portion of the area covered by Bolivar’s Nipa-Bacauan Permit, should have long ended in the filing by Cordenillo and Bolivar of their respective fishpond lease applications, the former, for the ten (10) hectares granted him under the Drilon Order, and the latter, for the twenty (20) hectares granted him, with preference, under the same order. In fact, in 1985, both Cordenillo and Bolivar did file their respective fishpond lease applications in accordance with area specifications under the Drilon Order.

The events thereafter, however, reveal the singular, real motivation of petitioner Cordenillo for challenging the Drilon Order: petitioner had, in fact, occupied and built improvements on, not only a portion of the area formerly covered by private respondent Bolivar’s Nipa-Bancauan Permit but also the twenty (20) hectares adjoining the ten (10) hectares granted him under the Drilon Order. In other words, petitioner Cordenillo wanted nothing less and nothing more than that portion of the Drilon Order granting him the ten (10) hectares of fishpond land already occupied by him, i.e., Cordenillo had all the while been consumingly obsessed with finding a way of deleting that portion of the Drilon Order granting Bolivar the adjoining twenty (20) hectares already also occupied by Cordenillo.

And so when the Venus Order was issued generally reinstating the Drilon Order but only specifically and explicitly directing the issuance of a lease agreement over the said ten (10) hectares in favor of Cordenillo and leaving out any mention of the preferential lease agreement over the adjoining twenty (20) hectares in favor of Bolivar, petitioner Cordenillo went to town with the boisterous, imperious, and myopic conclusion that the Venus Order reinstated the Drilon Order only insofar as the specific and explicit grant of lease to Cordenillo is concerned.

Petitioner Cordenillo’s wake up call has come, and it is this: Cordenillo is trifling with the processes of this government’s administrative offices with his utterly baseless, not to mention, selfish, cause.

First. We rule, in no uncertain terms, that the Venus Order reinstated, in whole, the Drilon Order. In the first place, there is simply nothing in the Venus Order that supports petitioner’s self-serving conclusion that said order only revived the grant to him of the ten(10) hectares already known to have earlier occupied by him. The dispositive portion of the Venus Order reads:

“WHEREFORE, THE Order of the Minister of Natural Resources dated March 31, 1980 is hereby set aside. In lieu thereof, the Order of then Undersecretary of Agriculture and Natural Resources Jose D. Drillon (sic), dated January 28, 1974, directing, inter alia that Roberto Cordenillo ‘secure a fishpond lease agreement from the Bureau of Fisheries covering the area of approximately ten (10) hectare (sic) which he has developed’ is hereby reinstated.

SO ORDERED.”[13] [emphasis ours]

On its face, the aforequoted dispositive portion of the Venus Order reinstated the Drilon Order directing, “inter alia” or among others, the grant to petitioner of the ten (10) hectares already developed by him into fishponds. Undoubtedly, the Venus Order acknowledged the existence of the other directives contained in the Drilon Order

by using the term, “inter alia.” Non-mention thereof in the Venus Order, thus, cannot be deemed abrogation thereof, since such other directives were clearly part of the context within which the Drilon Order was undertaken.

In the second place, the primary issue passed upon in the Venus Order was the question of “who has the better right to the disputed 10-hectare fishpond area.”[14] It is helpful to recall that petitioner had included in his Miscellaneous Sales Application a portion of the area covered by private respondent Bolivar’s Nipa-Bacauan Permit. This is the disputed 10-hectare fishpond area referred to in the Venus Order. Having identified the issue as such, then Acting Presidential Executive Assistant Venus perceived his recourse to be, to choose who between Cordenillo and Bolivar was entitled to the disputed 10-hectare fishpond area. Apparently, then Acting Presidential Executive Assistant Venus was impressed with Cordenillo’s asseverations of good faith in including said area in his application and decided to categorically declare Cordenillo the good faith occupant of the disputed area over which, he should be given preferential right to lease. Since the Drilon Order adjudicated said area to petitioner Cordenillo, then Acting Presidential Executive Assistant Venus opted to simply reinstate the entire Drilon Order and to quote the part thereof which was specially responsive and pertinent to, the sole issue of who, between Cordenillo and Bolivar, had better right to said disputed fishpond area. This ten-hectare fishpond area, however, is separate and distinct from the twenty-hectare area adjoining the same which was adjudicated to private respondent Bolivar as preferential lease applicant thereof under the Drilon Order. There is absolutely nothing in the Venus Order that challenged, negated, abrogated, or even modified the status of Bolivar as preferential lease applicant respecting the 20 hectares adjoining Cordenillo’s 10-hectare fishpond area. We thus, quote, with approval, the following postulations of the Solicitor General:

“The Decision of the Office of the President (O.P.) dated October 29, 1981 reinstated the entire dispositive portion of the Drilon Order of January 28, 1974, not just that portion thereof (paragraph 4) advising petitioner Roberto Cordenillo to secure a fishpond lease agreement from the Bureau of Fisheries covering the area of approximately ten(10) hectares he has developed. It may be immediately discerned from the O.P. Decision dated October 29, 1981, that what was resolved therein was solely the issue of who between the contending parties is entitled to the award of the ten (10)-hectare portion of subject fishpond area, nothing more or less. This is as it should be, because that was the lone and only issue raised by petitioner Roberto Cordenillo in his appeal from the MNR Order of March 31, 1980. If said Decision intended to revive only that particular portion of the Drilon Order of January 28, 1974 relative to the award of the ten (10) hectares, it should have categorically and emphatically ruled on the right, or rather, the disqualification, of private respondent Jose Bolivar to acquire the twenty (20) hectares decreed in the Drilon Order x x x. Strangely enough though, said Decision was conspicuously silent on this point. x x x Having opted not to discuss or mention even in passing the issue of private respondent Jose Bolivar’s preferential right to apply for the twenty (20) hectares area, the Decision in question must be taken, in effect, to have affirmed the same and those embodied in paragraphs 1, 2, 3, and 5 of the decretal portion of the Drilon Order. Consequently, the matter of private respondent Jose Bolivar’s right to award of twenty (20) hectares not having been controverted or traversed in the subject Decision, the same must be deemed to have been definitively settled or set to rest, along with the other issues discussed in the dispositive portion of the Drilon Order. This must be so, for the O.P. Decision of October 29, 1981, retroacts to the date of the Drilon Order of January 28, 1974. And having acquired the character of finality as of March 19, 1982, said Decision had, for all legal intents and purposes, concluded the legality, among others, of the conditional award to private respondent Jose Bolivar of the twenty (20) hectares and precluded the subsequent determination of the very same issue.

xxx

It may be apropos to mention that petitioner Roberto Cordenillo did not appeal the Drilon Order x x x. Hence, insofar as he is concerned, said order had preclusive effect, not only on that portion giving him preferential right to apply by lease for the ten (10)-hectare fishpond area, but the entirety thereof.

It should be noted that in his 'Appeal Memorandum' filed with the Office of the President x x x [when he appealed from the Leido Order], petitioner Roberto Cordenillo prayed for the reinstatement of the Drilon Order x x x. Likewise, in his subsequent 'Memorandum' x x x petitioner Roberto Cordenillo asked the Office of the President to uphold the Drilon Order x x x without qualification whatsoever. x x x"[15]

Second. Petitioner also argues that the herein assailed issuances of the Office of the President are null and void for having been promulgated in grave abuse of discretion amounting to lack of jurisdiction on the ground that the April 2, 1986 Clarificatory Order also issued by the Office of the President, through then Deputy Executive Secretary Fulgencio S. Factoran, Jr., categorically declared the Drilon Order to have been reinstated "only insofar as it directed Roberto Cordenillo to secure a fishpond lease agreement from the Bureau of Fisheries covering the area of approximately ten (10) hectares which he has developed." [16]

We strongly disagree.

If there is anything that was issued in grave abuse of discretion, it is this April 2, 1986 Order. What is ironic, however, is that justification of his finding that the Drilon Order was not reinstated in its entirety, then Deputy Executive Secretary Factoran cited exactly the same reason that rightly supports the contrary conclusion: that "the basic appeal to [the Office of the President] tendered only the issue of superiority of right over the disputed 10-hectare area." [17] Being patently null and void for having been issued in total disregard of and as completely contrary to, the already final and executory Venus Order reinstating the Drilon Order in its entirety, the April 2, 1986 Clarificatory Order of the Executive Secretary Factoran is incapable of ripening into a final and executory order as stubbornly claimed by petitioner.

Finally, petitioner pretends to be a victim of due process violation because he was not afforded the opportunity to be heard vis-à-vis private respondent Bolivar's "EX-PARTE MOTION (For Issuance of the Writ of Implementation)." Suffice it to say that the mere fact that petitioner assails two Resolutions of the Office of the President, the one with the later date of which was issued precisely upon petitioner's filing of a Motion for Reconsideration of the Resolution first issued on dated May 7, 1993, shows that petitioner was in fact heard, for purposes of Administrative due process, when he filed said Motion for Reconsideration. As such, any contention of denial of due process must fail as the same was cured by the filing of the Motion for Reconsideration. [18]

All told, herein public respondent Executive Secretary did not commit grave abuse of discretion in issuing the herein assailed twin Resolutions.

WHEREFORE, the instant petition is HEREBY DISMISSED.

Costs against petitioner.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, and Torres, Jr., JJ., concur.

Bellosillo, and Francisco, JJ., took no part; related to the parties.

[1] Promulgated by the Office of the President through Chief Presidential Legal Counsel Antonio T. Carpio; Rollo, pp. 30-38.

[2] Promulgated by the Office of the President through Senior Deputy Executive Secretary Leonardo A. Quisumbing; Rollo, pp. 39-42.

[3] Comment of the Solicitor General dated November 11, 1994, pp. 2-10; Rollo, pp. 103-111.

[4] Branch 17, Sixth Judicial Region.

[5] Petition dated June 23, 1989 docketed as G.R. No. 88814, p. 2; Rollo, p. 152.

[6] Ibid.

[7] Rollo, p. 158.

[8] Decision of the Court of Appeals dated August 14, 1989 in CA-G.R. SP No. 18397, pp. 2-3; Rollo, pp. 160-161.

[9] Resolution dated May 7, 1993, p. 9; Rollo, p. 38.

[10] Id., pp. 6-9; Rollo, pp. 35-38.

[11] Resolution dated June 9, 1994, pp. 2-4; Rollo, pp. 40-42.

[12] Petition for Certiorari dated June 23, 1989, p. 2; Rollo, p. 152.

[13] Order issued by Acting Presidential Executive Assistant Joaquin T. Venus, Jr., p. 7; Rollo, p. 49.

[14] Id., p. 4; Rollo, p. 46.

[15] Comment of the Solicitor General dated November 11, 1994, pp. 13-16; Rollo, pp. 114-117.

[16] Letter-Decision dated April 2, 1986, p. 4; Rollo, p. 66.

[17] Id., p. 3; Rollo, p. 65.

[18] Rosales v. Court of Appeals, 165 SCRA 344 [1988]; Maglasang v. Ople, 63 SCRA 508 [1975].

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