

**HON. CARLOS O. FORTICH, PROVINCIAL GOVERNOR OF BUKIDNON,
HON. REY B. BAULA, MUNICIPAL MAYOR OF SUMILAO, BUKIDNON,
NQSR MANAGEMENT AND DEVELOPMENT CORPORATION,
PETITIONERS, VS. H...**

G.R. No. 131457. November 17, 1998

Ponente: MARTINEZ, J.

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MARTINEZ, J.:

This pertains to the two (2) separate motions for reconsideration filed by herein respondents and the applicants for intervention, seeking a reversal of our April 24, 1998 Decision nullifying the so-called "win-win" Resolution dated November 7, 1997, issued by the Office of the President in O.P. Case No. 96-C-6424, and denying the applicants' Motion For Leave To Intervene.

Respondents' motion is based on the following grounds:

"I.

THE SO-CALLED WIN-WIN RESOLUTION DATED NOVEMBER 7, 1997 IS NOT A VOID RESOLUTION AS IT SEEKS TO CORRECT AN ERRONEOUS RULING. THE MARCH 29, 1996 DECISION OF THE OFFICE OF THE PRESIDENT COULD NOT AS YET BECOME FINAL AND EXECUTORY AS TO BE BEYOND MODIFICATION.

"II.

THE PROPER REMEDY OF PETITIONERS IS A PETITION FOR REVIEW UNDER RULE 43 AND NOT A PETITION FOR CERTIORARI UNDER RULE 65 OF THE RULES OF COURT.

"III.

THE FILING OF A MOTION FOR RECONSIDERATION IS A CONDITION SINE QUA NON BEFORE A PETITION FOR CERTIORARI MAY BE FILED BECAUSE THE QUESTIONED RESOLUTION IS NOT PATENTLY ILLEGAL.

"IV.

PETITIONERS ARE GUILTY OF FORUM-SHOPPING BECAUSE ULTIMATELY PETITIONERS SEEK THE SAME RELIEF, WHICH IS TO RESTRAIN THE DEPARTMENT OF AGRARIAN REFORM FROM PLACING THE SUBJECT 144-HECTARE PROPERTY UNDER THE COMPREHENSIVE AGRARIAN REFORM LAW (CARL)."[1]

For their part, the grounds relied upon by the applicants for intervention are as follows:

"I.

THE INTERVENORS POSSESS A RIGHT TO INTERVENE IN THESE PROCEEDINGS.

"II.

THE MODIFICATION BY THE OFFICE OF THE PRESIDENT (OP) OF ITS 29 MARCH 1996 DECISION,

THROUGH THE 7 NOVEMBER 1997 'WIN-WIN' RESOLUTION, WAS NOT ERRONEOUS BUT WAS A VALID EXERCISE OF ITS POWERS AND PREROGATIVES.

"III.

THE 'WIN-WIN' RESOLUTION PROPERLY ADDRESSES THE SUBSTANTIAL ISSUES RELATIVE TO THIS CASE."[2]

Both movants also ask that their respective motions be resolved by this Court en banc since the issues they raise are, described by the respondents, "novel,"[3] or, as characterized by the applicants for intervention, of "transcendental significance." [4] Most specifically, movants are presenting the issue of whether or not the power of the local government units to reclassify lands is subject to the approval of the Department of Agrarian Reform (DAR).

The instant motions are being opposed vehemently by herein petitioners.

The grounds raised here were extensively covered and resolved in our challenged Decision. A minute resolution denying the instant motions with finality would have been sufficient, considering that the same follows as a matter of course if warranted under the circumstances as in other equally important cases. However, in view of the wide publicity and media coverage that this case has generated, in addition to the demonstrations staged at the perimeter of this Court, as well as the many letters coming from different sectors of society (the religious and the NGOs) and even letters from abroad, we deem it necessary to write an extended resolution to again reiterate the basis for our April 24, 1998 Decision, and hopefully write finis to this controversy.

To support their request that their motions be referred to the Court en banc, the movants cited the Resolutions of this Court dated February 9, 1993, in Bar Matter No. 209, which enumerates the cases that may be resolved en banc, among which are the following:

"x x x x x x x x

3. Cases raising novel questions of law;

x x x x x x x x

8. Cases assigned to a division which in the opinion of at least three (3) members thereof merit the attention of the Court en banc and are acceptable to a majority of the actual membership of the Court en banc; and

x x x x x x x x"

Regrettably, the issues presented before us by the movants are matters of no extraordinary import to merit the attention of the Court en banc. Specifically, the issue of whether or not the power of the local government units to reclassify lands is subject to the approval of the DAR is no longer novel, this having been decided by this Court in the case of Province of Camarines Sur, et al. vs. Court of Appeals[5] wherein we held that local government units need not obtain the approval of the DAR to convert or reclassify lands from agricultural to non-agricultural use. The dispositive portion of the Decision in the aforecited case states:

"WHEREFORE, the petition is GRANTED and the questioned decision of the Court of Appeals is set aside insofar as it (a) nullifies the trial court's order allowing the Province of Camarines Sur to take possession of private respondent's property; (b) orders the trial court to suspend the expropriation proceedings; and (c) requires the Province of Camarines Sur to obtain the approval of the Department of Agrarian Reform to convert or reclassify private respondent's property from agricultural to non-agricultural use.

"x x x x x x x x" (Emphasis supplied)

Moreover, the Decision sought to be reconsidered was arrived at by a unanimous vote of all five (5) members of the Second Division of this Court. Stated otherwise, this Second Division is of the opinion that the matters raised by movants are nothing new and do not deserve the consideration of the Court en banc. Thus, the participation of the full Court in the resolution of movants' motions for reconsideration would be inappropriate.

We shall now resolve the respondents' motion for reconsideration.

In our Decision in question, we struck down as void the act of the Office of the President (OP) in reopening the case in O.P. Case No. 96-C-6424 through the issuance of the November 7, 1997 "win-win" Resolution which substantially modified its March 29, 1996 Decision that had long become final and executory, being in gross disregard of the rules and basic legal precept that accord finality to administrative determinations. It will be recalled that the March 29, 1996 OP Decision was declared by the same office as final and executory in its Order dated June 23, 1997 after the respondents DAR's motion for reconsideration of the said decision was denied in the same order for having been filed beyond the 15-day reglementary period.

In their instant motion, the respondents contend that the "win-win" Resolution of November 7, 1997 "is not a void resolution as it seeks to correct an erroneous ruling," hence, "(t)he March 29, 1996 decision of the Office of the President could not as yet become final and executory as to be beyond modification." [6]

The respondents explained that the DAR's failure to file on time the motion for reconsideration of the March 29, 1996 OP Decision was "excusable:"

"The manner of service of the copy of the March 29, 1996 decision also made it impossible for DAR to file its motion for reconsideration on time. The copy was received by the Records Section of the DAR, then referred to the Office of the Secretary and then to the Bureau of Agrarian Legal Assistance. By the time it was forwarded to the litigation office of the DAR, the period to file the motion for reconsideration had already lapsed. Instead of resolving the motion for reconsideration on the merits in the interest of substantial justice, the Office of the President denied the same for having been filed late." [7] (Emphasis supplied)

We cannot agree with the respondents' contention that the June 23, 1997 OP Order which denied the DAR's motion for reconsideration of the March 29, 1996 OP Decision for having been filed late was "an erroneous ruling" which had to be corrected by the November 7, 1997 "win-win" Resolution. The said denial of the DAR's motion for reconsideration was in accordance with Section 7 of Administrative Order No. 18, dated February 12, 1987, which mandates that "decisions/resolutions/orders of the Office of the President shall, except as otherwise provided for by special laws, become final after the lapse of fifteen (15) days from receipt of a copy thereof x x x, unless a motion for reconsideration thereof is filed within such period." [8]

Contrary to the respondents' submission, the late filing by the DAR of its motion for reconsideration of the March 29, 1996 OP Decision is not excusable. The respondents' explanation that the DAR's office procedure after receiving the copy of the March 29, 1996 OP Decision "made it impossible for DAR to file its motion for reconsideration on time" since the said decision had to be referred to the different departments of the DAR, cannot be considered a valid justification. There is nothing wrong with referring the decision to the departments concerned for the preparation of the motion for reconsideration, but in doing so, the DAR must not disregard the reglementary period fixed by law, rule or regulation. In other words, the DAR must develop a system of procedure that would enable it to comply with the reglementary period for filing said motion. For, the rules relating to reglementary period should not be made subservient to the internal office procedure of an administrative body. Otherwise, the noble purpose of the rules prescribing a definite period for filing a motion for reconsideration of a decision can easily be circumvented by the mere expediency of claiming a long and arduous process of preparing the said motion involving several departments of the administrative agency.

The respondents then faulted the Office of the President when they further stressed that it should have resolved "the (DAR's) motion for reconsideration on the merits in the interest of substantial justice," instead of simply denying the same for having been filed late,[9] adding that "technicalities and procedural lapses" should be "subordinated to the established merits of the case." [10] Respondents thus plead for a relaxation in the application of the rules by overlooking procedural lapses committed by the DAR.

We are persuaded.

Procedural rules, we must stress, should be treated with utmost respect and due regard since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. The requirement is in pursuance to the bill of rights inscribed in the Constitution which guarantees that "all persons shall have a right to the speedy disposition of their before all judicial, quasi-judicial and administrative bodies," [11] the adjudicatory bodies and the parties to a case are thus enjoined to abide strictly by the rules. [12] While it is true that a litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. [13] There have been some instances wherein this Court allowed a relaxation in the application of the rules, but this flexibility was "never intended to forge a bastion for erring litigants to violate the rules with impunity." [14] A liberal interpretation and application of the rules of procedure can be resorted to only in proper cases and under justifiable causes and circumstances.

In the instant case, we cannot grant respondents the relief prayed for since they have not shown a justifiable for a relaxation of the rules. As we have discussed earlier, the DAR/s late filing of its motion for reconsideration of the March 29, 1996 OP Decision was not justified. Hence, the final and executory character of the said OP Decision can no longer be disturbed, much less substantially modified. Res judicata has set in and the adjudicated thing or affair should forever be put to rest. It is in this sense that we, in our decision under reconsideration, declared as void and of no binding effect the "win-win" Resolution of November 7, 1997 which substantially modified the March 29, 1996 Decision, the said resolution having been issued in excess of jurisdiction and in arrant violation of the fundamental and time-honored principle of finality to administrative determinations.

The movants, however, complain that the case was decided by us on the basis of a "technicality," and, this has been the rallying cry of some newspaper columnists who insists that we resolve this case not on mere "technical" grounds.

We do not think so.

It must be emphasized that a decision/resolution/order of an administrative body, court or tribunal which is declared void on the ground that the same was rendered without or in excess of jurisdiction, or with grave abuse of discretion, is by no means a mere technicality of law or procedure. It is elementary that jurisdiction of a body, court or tribunal is an essential and mandatory requirement before it can act on a case or controversy. And even if said body, court or tribunal has jurisdiction over a case, but has acted in excess of its jurisdiction or with grave abuse of discretion, such act is still invalid. The decision nullifying the questioned act is an adjudication on the merits.

In the instant case, several fatal violations of the law were committed, namely: (1) the DAR filed its motion for reconsideration of the March 29, 1996 OP Decision way beyond reglementary period; (2) after the said motion for reconsideration was denied for having been filed late, the March 29, 1996 Decision was declared final and executory, but the DAR still filed a second motion for reconsideration which is prohibited by the rules; [15] (3) despite this, the second motion for reconsideration was entertained by herein respondent, then Deputy Executive Secretary Renato C. Corona, and on the basis thereof, issued the "win-win" Resolution dated November 7, 1997,

substantially modifying the March 29, 1996 Decision which had long become final and executory; and (4) the reopening of the same case through the issuance of the November 7, 1997 "win-win" resolution was in flagrant infringement of the doctrine of *res judicata*. These grave breaches of the law, rules and settled jurisprudence are clearly substantial, not of technical nature.

It should be stressed that when the March 29, 1996 OP Decision was declared final and executory, vested rights were acquired by the herein petitioners, namely, the province of Bukidnon, the municipality of Sumilao, Bukidnon, and the NQSR Management and Development Corporation, and all others who should be benefited by the said decision. Thus, we repeat, the issue here is not a question of technicality but that of substance and merit. In the words of the learned Justice Artemio V. Panganiban in the case of *Videogram Regulatory Board vs. Court of Appeals, et al.*,^[16] "(j)ust as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his/her case."

Another matter which the movants bring to our attention is that when the DAR's Order denying petitioners' application for conversion was first brought by petitioner Carlos O. Fortich to the Office of the President, the appropriate administrative rules were not complied with. We wish to point out that, apparently, movants had the opportunity to questions this alleged lapsed in procedure but chose not to avail of the same. For the "win-win" Resolution itself never mentioned this supposed procedural lapse as an issue. Here, the issue which has been brought to the fore is the validity of the "win-win" Resolution of November 7, 1997, not that of any other previous proceedings. The movants cannot now question the supposed procedural lapse for the first time before us. it should have been raised and resolved at the first opportunity, that is, at the administrative level.

The other grounds raised by respondents in their instant motion for reconsideration concerning the propriety of petitioners' remedy, the absence of a motion for reconsideration of the "win-win" Resolution before resorting to the present petition for certiorari, and forum shopping have already been extensively dealt with in our challenged decision. We need not further elaborate on these grounds except to state that the same lacks merit.

With respect to the motion for reconsideration filed by the applicants for intervention, we likewise find the same unmeritorious. The issue of the applicants' right to intervene in this proceedings should be laid to rest. The rule in this jurisdiction is that a party who wishes to intervene must have a "certain right" or "legal interest" in the subject matter of the litigation.^[17] Such interest must be "actual, substantial, material, direct and immediate, and not simply contingent and expectant."^[18]

Here, the applicants for intervention categorically admitted that they were not tenants of petitioner NQSR Management and Development Corporation, but were merely seasonal farmworkers in a pineapple plantation on the subject land which was under lease for ten (10) years to the Philippine Packing Corporation.^[19] Respondent, then DAR Secretary Ernesto Garilao, also admitted in his Order of June 7, 1995 that "the subject land is neither tenanted nor validity covered for compulsory acquisition xxx."^[20]

Under Section 4, Article XIII of the 1987 Constitution, the right to own directly or collectively the land they till belongs to the farmers and regular farmworkers who are landless, and in the case of other farmworkers, the latter are entitled "to receive a just share of the fruits" of the land. The pertinent portion of the aforecited constitutional provision mandates:

"Sec. 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. x x x" (Emphasis supplied)

Commenting on the above-quoted provision, the eminent constitutionalist, Fr. Joaquin G. Bernas, S.J., one of the framers of the 1987 Constitution, declares that under the agrarian reform program the equitable distribution of the

land is a right given to landless farmers and regular farmworkers to own the land they till, while the other or seasonal farmworkers are only entitled to a just share of the fruits of the land.[21] Being merely seasonal farmerworkers without a right to own, the applicants' motion for intervention must necessarily fail as they have no legal or actual and substantial interest over the subject land.

It is noteworthy that even the "win-win" Resolution of November 7, 1997 which the herein respondents and the applicants for intervention seek to uphold did not recognize the latter as proper parties to intervene in the case simply because the qualified farmer-beneficiaries have yet to be meticulously determined as ordered in the said resolution. The dispositive portion of the "win-win" Resolution reads:

"WHEREFORE, premises considered, the decision of the Office of the President, through Executive Secretary Ruben Torres, dated March 29, 1996, is hereby MODIFIED as follows:

x x x x x x x x

"(3) The Department of Agrarian Reform is hereby directed to carefully and meticulously determine who among the claimants are qualified beneficiaries.

x x x x x x x x

"We take note of the Memorandum in Intervention filed by 113 farmers on October 10, 1997 without ruling on the propriety or merits thereof since it is unnecessary to pass upon it at this time.

"SO ORDERED." [22] (Emphasis supplied)

These are all that are necessary to dispose of the instant separate motions for reconsideration considering that the crucial issue in the present petitioner for certiorari is simply the validity of the "win-win" resolution.

But even if we tackle the other issues which the movants describe as "substantial," namely: (1) whether the subject land is considered a prime agricultural land with irrigation facility; (2) whether the land has long been covered by a Notice of Compulsory Acquisition (NCA); (3) whether the land is tenanted, and if not, whether the applicants for intervention are qualified to become beneficiaries thereof; and (4) whether the Sangguniang Bayan of Sumilao has the legal authority to reclassify the land into industrial/institutional use, to our mind, the March 29, 1996 OP Decision has thoroughly and properly disposed of the aforementioned issues. We quote the pertinent portions of the said Decision:

"After a careful evaluation of the petition vis-avis the grounds upon which the denial thereof by Secretary Garilao was based, we find that the instant application for conversion by the Municipality of Sumilao, Bukidnon is impressed with merit. To be sure, converting the land in question from agricultural to agro-industrial would open great opportunities for employment and bring real development in the area towards a sustained economic growth of the municipality. On the other hand, distributing the land to would-be beneficiaries (who are not even tenants, as there are none) does not guarantee such benefits.

"Nevertheless, on the issue that the land is considered a prime agricultural land with irrigation facility it maybe appropriate to mention that, as claimed by petitioner, while it is true that there is, indeed, an irrigation facility in the area, the same merely passes thru the property (as a right of way) to provide water to the ricelands located on the lower portion thereof. the land itself, subject of the instant petition, is not irrigated as the same was, for several years, planted with pineapple by the Philippine-Packing Corporation.

"On the issue that the land has long been covered by a Notice of Compulsory Acquisition (NCA) and that the existing policy on withdrawal or lifting on areas covered by NCA is not applicable, suffice it to state that the said NCA was declared null and void by the Department of Agrarian Reform Adjudication Board (DARAB) as early as March 1, 1992. Deciding in favor of NQSRMDC, the DARAB correctly pointed out that under Section

8 R.A. No. 6657, the subject property could not validly be the subject of compulsory acquisition until after the expiration of the lease contract with Del Monte Philippines, a Multi-National Company, or until April 1994, and ordered the DAR Regional Office and the land Bank of the Philippines, both in Butuan City, to desist from pursuing any activity or activities covering petitioner's land.

"On this score, we take special notice of the fact that the Quisumbing family has already contributed substantially to the land reform program of the government, as follows: 300 hectares of rice land in Nueva Ecija in the 70's and another 100 hectares in the nearby Municipality of Impasugong, Bukidnon, ten (10) years ago, for which they have not received 'just compensation' up to this time.

"Neither can the assertion that 'there is no clear and tangible compensation package arrangements for the beneficiaries' hold water as, in the first place, there are no beneficiaries to speak about, for the land is not tenanted as already stated.

"Nor can procedural lapses in the manner of identifying/reclassifying the subject property for agro-industrial purposes be allowed to defeat the very purpose of the law granting autonomy to local government units in the management of their local affairs. Stated more simply, the language of Section 20 of R.A. No. 7160, supra, is clear and affords no room for any other interpretation. By unequivocal legal mandate, it grants local government units autonomy in their affairs including the power to convert portions of their agricultural lands and provide for the manner of their utilization and disposition to enable them to attain their fullest development as self-reliant communities.

"WHEREFORE, in pursuant of the spirit and intent of the said legal mandate and in view of the favorable recommendations of the various government agencies abovementioned, the subject Order, dated November 14, 1994 of the Hon. Secretary, Department of Agrarian Reform, is hereby SET ASIDE and the instant application of NQSRMDC/BAIDA is hereby APPROVED." [23] (Emphasis supplied)

It is axiomatic that factual findings of administrative agencies which have acquired expertise in their field are binding and conclusive on the Court,[24] considering that the Office of the President is presumed to be most competent in matters falling within its domain.

The interest of justice is invoked by movants. We are aware of that famous adage of the late President Ramon Magsaysay that "those who have less in life should have more in law." Our affirmation of the finality of the March 29, 1996 OP Decision is precisely pro-poor considering that more of the impoverished of society will be benefited by the agro-economical development of the disputed land which the province of Bukidnon and the municipality of Sumilao, Bukidnon intend to undertake. To our mind, the OP Decision of March 29, 1996 was for the eventual benefit of the many, not just of the few. This is clearly shown from the development plan on the subject land as conceived by the petitioners. The said plan is supposed to have the following components as indicated in the OP Decision of March 29, 1996:

"1. The Development Academy of Mindanao which constitutes the following: Institute for Continuing Higher Education; Institute for Livelihood Science (Vocational and Technical School); Institute for Agribusiness Research; Museum, Library, Cultural Center, and Mindanao Sports Developments Complex which covers an area of 24 hectares;

"2. Bukidnon Agro-Industrial Park which consists of corn processing for corn oil, corn starch, various corn products; rice processing for wine, rice-based snacks, exportable rice; cassava processing for starch, alcohol and food delicacies; processing plants, fruits and fruit products such as juices; processing plants for vegetables processed and prepared for market; cold storage and ice plant; cannery system; commercial stores; public market; and abattoir needing about 67 hectares;

"3. Forest development which includes open spaces and parks for recreation, horse-back riding, memorial and

mini-zoo estimated to cover 33 hectares; and

"4. Support facilities which comprise the construction of a 360-room hotel, restaurants, dormitories and a housing covering an area of 20 hectares." [25]

Expressing full support for the proposed project, the Sangguniang Bayan of Sumilao, Bukidnon, on March 4, 1993, enacted Ordinance No. 24 converting or re-classifying the subject 144-hectare land from agricultural to industrial/institutional use with a view of providing an opportunity to attract investors who can inject new economic vitality, provide more jobs and raise the income of its people. The said project was also supported by the Bukidnon Provincial Board which, on the basis of a Joint Committee Report submitted by its Committee on Laws, Committee on Agrarian Reform and Socio-Economic Committee, approved the said ordinance on February 1, 1994, now docketed as Resolution No. 94-95.

Impressed with the proposed project, several government agencies and a private cooperative, including the people of the affected barangay, recommended the same. Again, we quote the pertinent portion of the OP Decision of March 29, 1996:

"The said NQSRMDC Proposal was, per Certification dated January 4, 1995, adopted by the Department of Trade and Industry, Bukidnon Provincial Office, as one of its flagship projects. The same was likewise favorably recommended by the Provincial Development Council of Bukidnon; the municipal, provincial and regional office of the DAR; the Regional Office (Region X) of the DENR (which issued an Environmental Compliance Certificate on June 5, 1995); the Executive Director, signing 'By Authority of PAUL G. DOMINGUEZ,' Office of the President - Mindanao; the Secretary of DILG; and Undersecretary of DECS Wilfredo D. Clemente.

"In the same vein, the Natioal Irrigation Administration, Provincial Irrigation Office, Bagontaas Valencia, Bukidnon, thru Mr. Juluis S. Maquiling, Chief, Provincial Irrigation Office, interposed NO OBJECTION to the proposed conversion x x x. Also, the Kisolom-San Vicente Irrigators Multi Purpose Cooperative, San Vicente, Sumilao, Bukidnon, interposed no objection to the proposed conversion of the land in question 'as it will provide more economic benefits to the community in terms of outside investments that will come and employment opportunities that will be generated by the projects to be put up x x x.'

"On the same score, it is represented that during the public consultation held at the Kisolan Elementary School on 18 March 1995 with Director Jose Macalindong of DAR Central Office and DECS Undersecretary Clemente, the people of the affected barangay rallied behind their respective officials in endorsing the project." [26] (Emphasis supplied)

In this regard, the petitioners gave this assurance: "The proposed project is petitioners' way of helping insure food, shelter and lifetime security of the greater majority of Sumilao's 22,000 people. It is capable of employing thousands of residents, enabling them to earn good income ranging about P40,000.00 to P50,000.00 for each." [27]

We express our grave concern with the manner some sectors of society have been trying to influence this Court into resolving this case on the basis of considerations other than the applicable law, rules and settled jurisprudence and the evidence on record. We wish to emphasize that withstanding the previous adverse comments by some columnists in the print media, the assailed Decision was arrived at in the pursuit of justice and the rule of law.

Finally, for those who refuse to understand, no explanation is possible, but for those who understand, no explanation is necessary.

WHEREFORE, the separate motions for reconsideration of the April 24, 1998 Decision of this Court, filed by the respondents and the applicants for intervention, are hereby DENIED with FINALITY.

SO ORDERED.

Mendoza, J., concur.

Melo, J., I join in Justice Puno's separate opinion.

Puno, J., Please see Separate Opinion.

[1] Rollo, pp. 1003-1004.

[2] Rollo, p. 1029.

[3] Rollo, p. 1101.

[4] Rollo, p. 1029.

[5] 222 SCRA 173 182 [1993].

[6] Rollo, p. 1004. [Emphasis supplied].

[7] Rollo, pp. 1009-1010.

[8] See also Eugenio vs. Drilon, 252 SCRA 106, 108, 114-115 [1996].

[9] Rollo, p. 1010 (Emphasis supplied).

[10] Rollo, p. 1009 (Emphasis supplied).

[11] Article III, Section 16, 1987 Constitution.

[12] Garbo vs. Court of Appeals, et al., 258 SCRA 159, 163 [1996].

[13] Dulos vs. Court of Appeals, et al., 188 SCRA 413, 422 [1990].

[14] Garbo vs. Court of Appeals, et al., supra.

[15] Second paragraph of Section 7, Administrative Order no. 18, dated February 12, 1987. See also Section 4 Rule 43, 1997 Rules of Civil Procedure.

[16] 265 SCRA 50-51, 56 [1996].

[17] Garcia vs. David, 67 Phil. 279-280, 283-284 [1939].

[18] Ibid.

[19] Rollo, p. 654. See also OP decision dated March 29, 1996, Rollo, p. 166.

[20] Rollo, p. 111.

[21] The 1987 Philippine Constitution: A Reviewer-Primer, Third Edition (1997), p. 441.

[22] Rollo, 61-62.

[23] Rollo, pp. 166-167.

[24] Matalam vs. Commission on Elections, 271 SCRA 733 [1997].

[25] Rollo, p. 164.

[26] Rollo, pp.164-165.

[27] Consolidated Comment/Opposition to Respondents' Motions for Reconsideration, p. 25; Rollo, p. 1082.

SEPARATE OPINION

PUNO, J.:

The salient facts are well established. The instant controversy originated from an application for land use conversion filed on December 11, 1993 before the DAR by Mr. Gaudencio Beduya in behalf of the Bukidnon Agro-Industrial Development Association (BAIDA) and petitioner NQSR Management and Development Corporation concerning its 144-hectare land in San Vicente, Sumilao, Bukidnon. In an Order[1] dated November 14, 1994, DAR Secretary Ernesto D. Garilao denied the application for conversion of the land from agricultural to agro-industrial use and ordered its distribution to qualified landless farmers. BAIDA and NQSR Management and Development Corporation filed a motion for reconsideration[2] dated January 9, 1995, which was, however, denied in an Order[3] dated June 7, 1995. Thereafter, Bukidnon Governor Carlos O. Fortich sent a letter[4] to President Fidel V. Ramos requesting him to suspend the Garilao Order and to confirm the ordinance enacted by the Sangguniang Bayan of Sumilao converting the subject land from agricultural to industrial/institutional land. Acting on the letter, then Executive Secretary Torres reversed the Garilao Order and upheld the power of local government units to convert portions of their agricultural lands into industrial areas.[5] Respondent DAR Secretary Garilao filed a motion for reconsideration. Admittedly tardy, which was denied by then Executive Secretary Torres on the ground that his March 29, 1996 decision had already become final and executory in view of the lapse of the fifteen-day period for filing a motion for reconsideration. A second motion for reconsideration was filed during the pendency of which President Ramos constituted the Presidential Fact-Finding Task Force. On November 7, 1997, Deputy Executive Secretary Corona issued the herein-assailed "win-win" resolution which, pursuant to the recommendations of the task force, substantially modified the Torres decision by awarding one hundred (100) hectares of the Sumilao property to the qualified farmer beneficiaries and allocating only forty four (44) hectares for the establishment of an industrial and commercial zone.

In our decision promulgated in Baguio City on April 24, 1998, we annulled the "win-win" resolution on the ground that public respondent Deputy Executive Secretary Renato C. Corona committed grave abuse of discretion in modifying an already final and executory decision of then Executive Secretary Ruben T. Torres. It is undisputed that the Department of Agrarian Reform (DAR) failed to comply with the fifteen-day period for filing a motion for reconsideration.[6] It received the Torres decision on April 10, 1996 but transmitted its motion for reconsideration to the DAR Records Management Division for mailing to the Office of the President only on May 23, 1996.[7] The Office of the President received the motion on July 14, 1997. Forthwith, we applied the rule on finality of administrative determinations and upheld the policy of setting an end to litigation as an indispensable aspect of orderly administration of justice. In their motions for reconsideration, respondents and intervenors protest the technical basis of our decision.

I vote to grant their motions for reconsideration and remand the case to the Court of Appeals.

First. It is true that procedural rules are necessary to secure just, speedy and inexpensive disposition of every action and proceeding.[8] Procedure, however, is only a means to an end,[9] and they may be suspended when they subvert the interests of justice. It is self-evident that the prerogative to suspend procedural rules or to grant an exception in a particular case lies in the authority that promulgated the rules.[10]

Rules concerning pleading, practice and procedure in all courts are promulgated by this Court.[11] On the other hand, it is the President as administrative head who is vested by the Administrative Code of 1987 to promulgate rules relating to governmental operations, including administrative procedure. These rules take the form of

administrative orders.[12] This power is necessary for the President to discharge his constitutional duty faithfully executing our laws.[13] Under exceptional circumstances, this Court has suspended its rules to prevent miscarriage of justice. In the same breath, we should hold that the President has the power to suspend the effectivity of administrative rules of procedure when they hamper, defeat or in any way undermine the effective enforcement of the laws of the land. Indeed, we already recognize that Congress can suspend its own rules if doing so will enable it to facilitate its task of lawmaking. The three great branches of our government are co-equal and within their own sphere they have the same responsibility to promote the good of our people. There is no reason to withhold the power to suspend rules from the President and grant it alone to the two other branches of government.

A closer scrutiny of the records in the instant case reveals that the fifteen-day rule for filing a motion for reconsideration under Section 7 of Administrative Order No. 18 was suspended by the President when he constituted, on October 15, 1997 or some six (6) months after the promulgation of the Torres decision, the Presidential Fact-Finding Task Force to conduct a comprehensive review of the proper land use of the 144-hectare Sumilao property. At that time, then Executive Secretary Torres had already denied the first motion for reconsideration of the DAR on the ground that his March 29, 1997 decision had already become final and executory. This notwithstanding, the President treated the case as still open and stated in his memorandum that the findings of the Presidential Fact-Finding Task Force " will be inputs to the resolution of the case now pending at the Office of the President regarding the said land" (emphasis ours).[14] The President took cognizance of the special circumstances surrounding the tardy filing by the DAR of its motion for reconsideration. The DAR lawyers assigned to the Sumilao case received the Torres decision only after the lapse of the reglementary fifteen-day period for appeal. The copy of the decision intended for them was passed from one office to another, e.g., the Records Section of the DAR, the Office of the DAR Secretary, the Bureau of Agrarian Legal Assistance, before it finally reached the DAR Litigation Office. It does not appear to be just that DAR will be made to lose a significant case because of bureaucratic lapses. Viewed in this context, we should rule that the President suspended the effectivity of Section 7 of Administrative Order No. 18 and that his exercise of discretion in this regard cannot be assailed as whimsical.

I also respectfully submit this act of the President also finds full sanction under the corollary principles of presidential power of control and qualified political agency.

"This presidential power of control over the executive branch of government extends over all executive officers from Cabinet Secretary to the lowliest clerk and has been held by us, in the landmark case of *Mondano vs. Silvosa* to mean 'the power of [the President] to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former with that of the latter.' It is said to be at the very 'heart of the meaning of Chief Executive.'

Equally well accepted, as a corollary rule to the control powers of the President, is the 'Doctrine of Qualified Political Agency.' As the President cannot be expected to exercise his control powers all at the same time and in person, he will have to delegate of them to his Cabinet members.

Under this doctrine, which recognizes the establishment of a single executive, 'all executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by the Constitution or law to act in person o[r] the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the Secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive presumptively the acts of the Chief Executive.' x x x

Thus, and in short, 'the President's power of control is directly exercised by him over the members of the Cabinet who, in turn, and by his authority, control the bureaus and other offices under their respective jurisdictions in the executive department.'"[15]

By suspending the fifteen-day period for filing a motion for reconsideration and re-opening the Torres decision, the President clearly exercised his control power over an alter-ego within the framework of a constitutional and presidential system of governance.

The President's suspension of the fifteen-day rule for filing a motion for reconsideration cannot be characterized as arbitrary. The Sumilao problem raises fundamental issues which conflict between land reform and the industrialization of the countryside, the power of control by the President over his alter egos vis-à-vis the power of local government to convert agricultural land to industrial land. The resolution of these has far reaching implications on the success of our land reform program. Indeed, their successful resolution can bring peace or rebellion in our countryside. The President should not be frustrated by an administrative procedural rule that he himself promulgated, from formulating a creative, legal solution to the Sumilao problem. There is no denying the liberal interpretation equally accorded to both administrative and judicial rules in order to promote their object to the extent that technically be not a bar to the vindication of a legitimate grievance. We have trumpeted the truism that when technicality ceases to be an aid to justice, the courts are justified in excepting from its operation a particular case.¹⁶ We ought not to deny the same power to the Chief Executive who heads a co-equal branch of government.

Second. The petitioners are estopped from assailing the authority of the Office of the President to re-open the Sumilao case and resolve it based on the report of the Presidential Fact-Finding Task Force. Undeniably, petitioners participated in the processes conducted by the task force. Their participation in the administrative proceedings without raising any objection thereto, bars them from raising any jurisdictional infirmity after an adverse decision is rendered against them.^[17] Petitioners Carlos O Fortich and Rey B. Baula, Bukidnon Governor and Sumilao Mayor, respectively, were named members of the task force.^[18] The president ordered the task force to confer with the representatives of, among others, the landowners, namely, petitioner NQSR Management and Development Corporation.^[19] In a letter dated October 20, 1997 addressed to the President, the counsel for NQSR Management and Development Corporation expressed its reluctance "to comment on the merits and demerits of the [motion for intervention and motion to admit additional evidence filed by the farmer beneficiaries] out of respect of the Regional Trial Court and the Court of Appeals where these cases are presently pending".^[20] NQSR Management and Development Corporation, however, did not question the authority of the President to constitute the task force despite its express adherence to the declaration by then Executive Secretary Torres as to the finality of his March 29, 1997 decision. It was confident that its interests would be promoted and protected by Bukidnon Governor Fortich who himself filed the appeal from the order of DAR Secretary Garilao^[21] and Sumilao Mayor Baula who certified as correct Resolution No. 24 approved by the Sangguniang Bayan of Sumilao on March 4, 1993 converting the 144-hectare property from agricultural to industrial/institutional land.^[22] But when the "win-win" resolution was issued by the Office of the President on November 7, 1997, allowing the conversion into industrial land of only forty four (44) hectares of the 114-hectare Sumilao property and ordering the distribution of the rest to qualified farmer beneficiaries, petitioners were flabbergasted. Mr. Norberto Quisumbing, Jr. could hardly hide his disdain over that resolution in his letter to the provincial agrarian officer protesting as absurd and arbitrary the valuation of the 100 hectares at P5.1 million pesos. That resolution was allegedly an "unprecedented turn-around which is most difficult for the discerning public to appreciate".^[23]

The "win-win" resolution being adverse to petitioners, they now assail the authority of the President to modify the Torres decision. Under the above-mentioned circumstances, however, the principle of estoppel applies to

effectively bar petitioners from raising the issue of jurisdiction.[24] While lack of jurisdiction of the court or quasi-judicial body may be assailed at any stage, a party's active participation in the proceedings before it will estop him from assailing its lack of jurisdiction.[25] This Court has always frowned upon the undesirable practice of a party submitting his case for decision and then accepting the judgment, only if favorable, and attacking it for lack of jurisdiction when adverse.[26]

Third. Considering the special circumstances of the case as detailed above, it would better serve the ends of justice to obtain a definitive resolution of the issues raised in the instant petition and remand the same to the Court of Appeals where jurisdiction over this appeal lies. Noteworthy, is the pendency in the Court of Appeals of two or more cases involving the Sumilao property: (1) Petition for Certiorari and Prohibition, entitled, "N.Q.S.R. Management & Development Corporation and Bukidnon Agro-Industrial Association, Petitioner, vs. Hon. Ernesto Garilao, Secretary of the Department of Agrarian Reform; Rogelio E. Tamin, DAR Regional Director, Region X; Nicanor Peralta, Provincial Agrarian Reform Officer, Region X; Dolores Apostol, Municipal Agrarian Reform Officer, Sumilao, Bukidnon, Respondents";[27] and (2) Petition for Certiorari and Prohibition, entitled, "Rodolfo Buclasan, et al., Petitioners, vs. Hon. Leonardo N. Demecillo, as Judge of RTC, Malaybalay, Bukidnon, Branch IX and NQSR Management and Development Corporation, Respondents".[28]

The remand of the instant petition to the Court of Appeals would enable said court to consolidate the same with the two other cases pending there which undoubtedly contemplate of the same factual milieu and raise invariably the same issues as in this petition, leaving no room for further confusion that will surely be wrought by the rendition of conflicting decisions affecting a single controversy.

For the above reasons, I vote to grant the motions for reconsideration filed by the respondents and the intervenors who should be allowed to intervene pursuant to sec. 1, Rule 19 and to remand the instant petition to the Court of Appeals for appropriate proceedings.

[1] Rollo, pp. 89-98.

[2] Rollo, pp. 99-106.

[3] Rollo, pp. 107-114.

[4] Dated June 28, 1995, Rollo, pp. 115-120.

[5] Decision dated March 29, 1996, p. 5, Rollo, p. 167.

[6] Section 7 of Administrative Order No. 18 which governs appeals to the Office of the President provides:

"SEC. 7. Decisions/resolutions/orders of the Office of the President shall, except as otherwise provided for by special laws, become final after the lapse of fifteen (15) days from receipts of a copy thereof by the parties, unless a motion for reconsideration thereof is filed within such period.

"Only one motion for reconsideration by any one party shall be allowed and entertained, save in exceptionally meritorious cases."

[7] Order dated June 23, 1997, issued by then Executive Secretary Ruben T. Torres, Rollo, p. 192.

[8] Section 6, Rule 1, 1997 Rules of Civil Procedure.

[9] Torres, v. Caluag, et al., 17 SCRA 808, 811 (1966).

[10] Paras, Edgardo L., Rules of Court Annotated, 1989 Edition, Volume 1, pp. 17-18, commenting on People's

Homesite & Housing Corp. v. Tiongco, 12 SCRA 471 (1964).

[11] Section 5(5), Article VIII, 1987 Constitution.

[12] Section 3, Chapter 2, Title I, Book III, Administrative Code of 1987.

[13] Cortes, Irene R., The Philippine Presidency: A Study of Executive Power, 1966 Edition, p. 75, citing Myers v. United States, 272 U.S. 32 (1926).

[14] Memorandum from the President dated October 15, 1997, Rollo, p. 807.

[15] Carpio v. Executive Secretary, 206 SCRA 290, 295-296 (1992), citing Mondano v. Silvosa, 97 Phil. 143 (1995); Villena v. Secretary of Interior, 67 Phil. 451 (1939); Lacson-Magallanes Co., Inc. v. Pano, 21 SCRA 895 (1967); De Leon v. Carpio, 178 SCRA 457 (1989).

[16] People's Homesite & Housing Corp. v. Tiongco, 12 SCRA 471, 475-476 (1964).

[17] Realty Exchange Venture Corporation v. Sendino, 233 SCRA 665, 671 (1994).

[18] Memorandum from the President dated October 15, 1997, Rollo, p. 807.

[19] Ibid.

[20] Rollo, p. 806.

[21] Letter-Appeal dated June 28, 1995, Rollo, pp. 115-120.

[22] Excerpt from the Minutes of the Sangguniang Bayan Regular Session held on March 4, 1993, Rollo, pp. 73-74.

[23] Letter dated December 29, 1997, p. 1, Rollo, p. 808.

[24] Zamboanga City Electric Cooperative, Inc. v. Buat, 243 SCRA 47, 51 (1995); Romualdez v. RTC, Br. 7, Tacloban City, 226 SCRA 408, 414 (1993); Aquino v. Court of Appeals, 204 SCRA 240 (1991); Salen v. Dinglasan, 198 SCRA 623 (1991); Tijam v. Sibonghanoy, 23 SCRA 29 (1968).

[25] Ibid.

[26] Tijam v. Sibonghanoy, 23 SCRA 29, 36 (1968).

[27] Docketed as CA-G.R. SP No. 37614, Rollo, pp. 121-146.

[28] Docketed as CA-G.R. SP No. 44905, Rollo, pp. 652-687.29

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