

ANNIE L. MANUBAY, ANNE MARIE L. MANUBAY, JAMES JOHN L. MANUBAY, JAMES FRANCIS L. MANUBAY, ANNE MARGARETH L. MANUBAY AND MANUBAY AGRO-INDUSTRIAL DEVELOPMENT CORP., INC. REPRESENT...

G.R. No. 140717. April 16, 2009

Ponente: CORONA, J.

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CORONA, J.:

At the heart of this controversy is a 124-hectare land in Barrio Cadlan, Pili, Camarines Sur owned by petitioners Annie, Anne Marie, James John, James Francis and Anne Margareth (all surnamed Manubay)[1] and Manubay Agro-Industrial Development Corporation.[2]

On November 15, 1994, the Municipal Agrarian Reform Officer (MARO) of Pili issued a notice of coverage placing the property under the comprehensive agrarian reform program (CARP).[3] Petitioners did not protest the notice.

On July 1, 1996, petitioners filed an application at the Department of Agrarian Reform (DAR) for conversion of the property from agricultural to residential.[4]

On August 26, 1996, the Sangguniang Bayan of Pili passed Resolution No. 145 approving the Comprehensive Zoning Ordinance of 1996 of the Municipality of Pili, Camarines Sur.[5] The ordinance reclassified the subject property from agricultural to highly urbanized intended for mixed residential and commercial use.[6]

Thereafter, petitioners requested DAR Regional Director Percival C. Dalugdug to set aside the November 15, 1994 notice of coverage. They pointed out that the land had been reclassified and the property was no longer suitable for agricultural purposes. Director Dalugdug denied their request in a letter dated November 13, 1996[7]:

Relative to land conversions, we are guided in our actions by [DAR-Administrative Order (AO)] No. 12, s. 1994 which clearly states that no application for conversions shall be accepted on lands for compulsory acquisition already given notices of coverage. Applications may only be accepted if the notice of coverage has been lifted for one reason or another.

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Please note that your properties have already been issued notices of coverage by the MARO of Pili last November 15, 1994 which is almost two years prior to your submission of the application for conversion. To reiterate, for us to entertain your application, you must first have these notices lifted whether because of retention or exemption. Since the basis of your claims of exemption (i.e., not yet covered per instruction by the Secretary, and reclassification under the Pili land use plan) are not valid, we are sorry to inform you that we can no longer entertain your application.... (emphasis supplied)

Respondent Ernesto Garilao, then DAR Secretary, upheld Director Dalugdug and denied petitioners' application for conversion, considering that the property had already been placed under the CARP.[8]

Aggrieved, petitioners separately asked respondent to reconsider. They insisted that, because the MARO issued a notice of coverage, not a notice of acquisition, their application for conversion should have been approved. The motions were denied.[9]

On April 28, 1998, petitioners filed a petition for certiorari in the Court of Appeals (CA) assailing the denial of their application for conversion.[10] They averred that respondent acted with grave abuse of discretion when he denied their application. According to them, the issuance of a mere notice of coverage placing agricultural land under the CARP was not a ground for the denial of such application.

In a resolution dated June 1, 1999, the CA dismissed the petition.[11] DAR-AO No. 7, s. 1997[12] provides that the decision of the DAR Secretary may be appealed either to the Office of the President (OP) or to the CA. Considering that the issue raised by petitioners involved the administrative implementation of the CARP, the OP was more competent to rule on the issue. Moreover, by failing to bring the matter to the said office, petitioner did not exhaust all available administrative remedies before resorting to a petition for certiorari.

Petitioners moved for reconsideration but it was denied.[13] Hence, this recourse.

Petitioners contend that the CA erred in dismissing the petition for certiorari as they did not violate the rule on exhaustion of administrative remedies. The act of a department secretary may be directly challenged in a petition for certiorari.

We dismiss the petition.

Under the doctrine of qualified political agency, department secretaries are alter egos or assistants of the President and their acts are presumed to be those of the latter unless disapproved or reprobated by him.[14] Thus, as a rule, an aggrieved party affected by the decision of a cabinet secretary need not appeal to the OP and may file a petition for certiorari directly in the Court of Appeals assailing the act of the said secretary.[15]

Section 1 of Rule 65 of the Rules of Court provides that, for a petition for certiorari to prosper, petitioner must show (1) the public respondent acted without or in excess of his jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction and (2) there is no appeal or a plain, speedy and adequate remedy in the ordinary course of law.

In a petition for certiorari premised on grave abuse of discretion, it must be shown that public respondent patently and grossly abused his discretion and that such abuse amounted to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law. In other words, the public respondent exercised his power arbitrarily and despotically by reason of passion or hostility.[16]

Here, inasmuch as respondent had a valid ground to deny petitioners' application, he did not commit grave abuse of discretion.

Furthermore, DAR-AO No. 7, s. 1997 requires an appeal (of the denial of application of conversion) to the OP. It was the plain, speedy and adequate remedy contemplated by Section 1 of Rule 65.

Needless to state, elevating the matter to the OP was consistent with the doctrine of exhaustion of administrative remedies. A party aggrieved by an order of an administrative official should first appeal to the higher administrative authority before seeking judicial relief. Otherwise, as in this case, the complaint will be dismissed for being premature or for having no cause of action.[17]

WHEREFORE, the June 1, 1999 and November 4, 1999 resolutions of the Court of Appeals in CA-G.R. SP No. 47244 are hereby AFFIRMED.

Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Leonardo-De Castro, and Bersamin, JJ., concur.

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- [1] Registered co-owners of lot no. 293, a 99.2559-hectare property, covered by TCT No. 12691.
- [2] Registered owner of lot nos. 360, 229, 388, 232 and 170 covered by TCT Nos. 12357, 12358, 12359 and 12360 respectively, covering an aggregate area of 25,0651 hectares.
- [3] Notice of Coverage issued by MARO Nelson S. Tongco. Rollo, p. 142.
- [4] Id., pp. 54-64.
- [5] Ordinance No. 40-1, s. 1996.
- [6] Certificate of Eligibility for Conversion issued by the Sangguniang Bayan of Pili. Dated July 9, 1996. Rollo, p. 95.
- [7] Id., p. 112. Petitioners subsequently requested Director Dalugdug to reconsider his November 13, 1996 decision but he refused to do so in a letter dated December 6, 1996. Id., pp. 113-114.
- [8] Order dated September 16, 1996. Id., pp. 116-119.
- [9] Orders dated January 14, 1998 and February 25, 1998. Id., pp. 144-15 and 165-170, respectively.
- [10] Docketed as CA-G.R. SP No. 472244.
- [11] Penned by Associate Justice Ma. Alicia Austria-Martinez (now a member of this Court) and concurred in by Associate Justices Salvador J. Valdez, Jr. (retired) and Renato C. Dacudao (retired) of the Ninth Division of the Court of Appeals. Rollo, pp. 16-18.
- [12] DAR-A.O. No. 7, s. 1999, par. XIV provides:
- XIV. APPEAL FROM THE DECISION OF THE UNDERSECRETARY OR SECRETARY.
- Appeal from the Decision of the Undersecretary shall be made to the Secretary and from the Secretary to the Office of the President or the Court of Appeals as the case may be. The mode of appeal/motion for reconsideration and appeal fee from Undersecretary to the Office of the Secretary shall be the same as that of the Regional Director to the Office of the Secretary.
- [13] Dated November 4, 1999. Id., p. 19.
- [14] See *DENR v. DENR Region 12 Employees*, 456 Phil. 635, 644 (2003).
- [15] Ruben E. Agpalo, *Philippine Administrative Law* 1999 ed., 354.
- [16] See *Aggabao v. Commission on Elections*, G.R. No. 163756, 26 January 2005, 449 SCRA 400. See also *Zarate v. Maybank*, G.R. No. 160976, 8 June 2005, 459 SCRA 785. See also *Agustin v. Court of Appeals*, G.R. No. 162571, 15 June 2005, 460 SCRA 315.
- [17] See *Pangasinan State University v. Court of Appeals*, G.R. No. 162321, 29 July 2007, 526 SCRA 92, 99.

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