

DEPARTMENT OF AGRARIAN REFORM, PETITIONER VS. APEX INVESTMENT AND FINANCING CORPORATION (NOW SM INVESTMENT CORPORATION), RESPONDENT.

G.R. No. 149422. April 10, 2003

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari[1] filed by the Department of Agrarian Reform (DAR) assailing the Decision[2] of the Court of Appeals dated April 26, 2001 in CA-G.R. SP No. 55052, “Apex Investment and Financing Corporation vs. Department of Agrarian Reform, et al.,” and its Resolution dated August 2, 2001 denying petitioner’s motion for reconsideration.

Respondent Apex Investment and Financing Corporation (now SM Investments Corporation), registered under the laws of the Philippines, owns several lots located at Barangay Paliparan, Dasmariñas, Cavite, covered by Transfer Certificates of Title (TCT) Nos. T-72491, T-90474, T-90475, T-90476, and T-90477.

On August 24, 1994, the Municipal Agrarian Reform Office (MARO) of Dasmariñas initiated compulsory acquisition proceedings over those lots pursuant to Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988. The MARO issued a Notice of Coverage informing respondent of the compulsory acquisition and inviting it to a meeting set on September 8, 1994; and Notice of Acquisition. Copies of these notices were sent to respondent’s office at 627 Echague Street, Manila. However, respondent denied having received the same because it was no longer holding office there.

Respondent learned of the compulsory acquisition proceedings from the December 11, 1997 issue of the Balita stating, among others, that TCT No. T-90476, covering respondent’s lot consisting of 23,614 square meters, has been placed under the compulsory acquisition program. Forthwith, petitioner sent respondent a copy of the Notice of Land Valuation and Acquisition dated July 24, 1997, offering to pay it P229,014.33 as compensation for the lot covered by TCT No. T-90476.

On January 12, 1998, respondent filed with the PARO a Protest rejecting the offer of compensation and contending that its lands are not covered by R.A. No. 6657 because they were classified as residential even prior to the effectivity of the law. Attached to its protest are copies of its land titles, tax declarations, location map and other supporting documents.

On March 27, 1998, respondent filed with the PARO a Supplemental Protest with (a) the Certification issued by Engineer Baltazar M. Usis, Regional Irrigation Manager of the National Irrigation Administration, Region IV, stating that respondent’s lots are not covered by any irrigation project; and (b) the Certification issued by Engineer Gregorio Bermejo, Municipal Engineer and Deputized Zoning Administrator of Dasmariñas, Cavite, attesting that the same lots are within the residential zone based on the Land Use Plan of the Municipality of Dasmariñas duly approved by the Housing and Land Use Regulatory Board (HLURB) in its Resolution No. R-42-A-3 dated February 11, 1981.

It was only on February 15, 1999, or more than one year after respondent filed its protest, that the PARO forwarded to petitioner DAR the said protest together with the records of the compulsory acquisition proceedings.

On June 21, 1999, respondent received a letter dated May 28, 1999 from petitioner requiring it to submit certified true copies of the TCTs covering its lots and a Certification from the HLURB attesting that they are within the residential zone of Dasmariñas based on HLURB Resolution No. R-42-A-3 dated February 11, 1981.

Thereafter, respondent learned that on June 24, 1999, the Registry of Deeds of Cavite cancelled one of its titles, TCT No. T-90476, and in lieu thereof, issued TCT No. T-868471 in the name of the Republic of the Philippines.

On July 26, 1999, respondent came to know that TCT No. T-868471 was cancelled and in lieu thereof, TCT No. CLOA-2473 was issued in the name of Angel M. Umali, a farmer-beneficiary allegedly occupying the land. This prompted respondent to file with the Court of Appeals a petition for certiorari and prohibition praying that the compulsory acquisition proceedings over its landholdings be declared void and that TCT No. CLOA-2473 issued to Angel Umali be cancelled.

In its comment, petitioner alleged that respondent failed to exhaust all administrative remedies before filing its petition. Hence, the same should be dismissed.

On April 26, 2001, the Court of Appeals rendered its Decision, the dispositive portion of which reads:

“WHEREFORE, the petition for certiorari is hereby granted and judgment is hereby rendered as follows:

- a) declaring the compulsory acquisition under Republic Act No. 6657 as null and void ab initio;
- b) prohibiting public respondents PARO and DAR from continuing with the compulsory acquisition proceedings over TCT No. T-72491; TCT No. T-90474; TCT No. T-90475; and TCT No. T-90477;
- c) prohibiting public respondent Register of Deeds of Cavite from cancelling the land titles of petitioner, i.e., TCT No. T-72491; TCT No. T-90474; TCT No. T-90475; and TCT No. T-90477 and the transferring, conveying and alienation thereof; and
- d) ordering the Register of Deeds of Cavite to restore TCT No. T-90476 (now CLOA 2473) in the name of petitioner.

“SO ORDERED.”

Petitioner filed a motion for reconsideration but was denied in the Resolution dated August 2, 2001.

Hence, the instant petition for review on certiorari.

Petitioner ascribes to the Court of Appeals the following errors: (a) in ruling that respondent corporation did not violate the principle of exhaustion of remedies; (b) in holding that respondent was deprived of its right to due process; and (c) in concluding that the subject parcels of land are residential, hence, not covered by R.A. No. 6657.

On the first assigned error, this Court has consistently held that the doctrine of exhaustion of administrative remedies is a relative one and is flexible depending on the peculiarity and uniqueness of the factual and circumstantial settings of a case.[3] Among others, it is disregarded where, as in this case, (a) there are circumstances indicating the urgency of judicial intervention;[4] and (b) the administrative action is patently illegal and amounts to lack or excess of jurisdiction.[5]

Records show that the PARO did not take immediate action on respondent’s Protest filed on January 12, 1998. It was only on February 15, 1999, or after more than one year, that it forwarded the same to petitioner DAR. Since

then, what petitioner has done was to require respondent every now and then to submit copies of supporting documents which were already attached to its Protest. In the meantime, respondent found that the PARO had caused the cancellation of its title and that a new one was issued to an alleged farmer-beneficiary.

In *Natalia Realty vs. Department of Agrarian Reform*,^[6] we held that the aggrieved landowners were not supposed to wait until the DAR acted on their letter-protests (after it had sat on them for almost a year) before resorting to judicial process. Given the official indifference which, under the circumstances could have continued forever, the landowners had to act to assert and protect their interests. Thus, their petition for certiorari was allowed even though the DAR had not yet resolved their protests. In the same vein, respondent here could not be expected to wait for petitioner DAR to resolve its protest before seeking judicial intervention. Obviously, petitioner might continue to alienate respondent's lots during the pendency of its protest. Hence, the Court of Appeals did not err in concluding that on the basis of the circumstances of this case, respondent need not exhaust all administrative remedies before filing its petition for certiorari and prohibition.

As to the second assigned error, we find that petitioner was deprived of its constitutional right to due process.

Section 16 of R.A. No. 6657, provides:

“Section 16. Procedures for Acquisition of Private Lands. – For purposes of acquisition of private lands, the following procedures shall be followed:

“(a) After having identified the land, the landowners and the beneficiaries, the DAR shall send its notice to acquire the land to the owners thereof, by personal delivery or registered mail, and post the same in a conspicuous place in the municipal building and barangay hall of the place where the property is located. Said notice shall contain the offer of the DAR to pay a corresponding value in accordance with the valuation set forth in Sections 17, 18, and other pertinent provisions hereof.

"x x x x x x x x"

In *Roxas & Co., Inc. vs. Court of Appeals*,^[7] we held:

“For a valid implementation of the CAR program, two notices are required: (1) the Notice of Coverage and letter of invitation to preliminary conference sent to the landowner, the representatives of the BARC, LBP, farmer beneficiaries and other interested parties pursuant to DAR A.O. No. 12, Series of 1989; and (2) the Notice of Acquisition sent to the landowner under Section 16 of R.A. No. 6657.

“The importance of the first notice, i.e., the Notice of Coverage and the letter of invitation to the conference, and its actual conduct cannot be understated. They are steps designed to comply with the requirements of administrative due process. The implementation of the CARL is an exercise of the State's police power and the power of eminent domain. To the extent that the CARL prescribes retention limits to the landowners, there is an exercise of police power for the regulation of private property in accordance with the Constitution (*Association of Small Landowners in the Philippines vs. Secretary of Agrarian Reform*, 175 SCRA 343, 373-374 [1989]). But where, to carry out such regulation, the owners are deprived of lands they own in excess of the maximum area allowed there is also a taking under the power of eminent domain. The taking contemplated is not a mere limitation of the use of the land. What is required is the surrender of the title to and physical possession of the said excess and all beneficial rights accruing to the owner in favor of the farmer beneficiary (*id.*). The Bill of Rights provides that “[n]o person shall be deprived of life, liberty or property without due process of law” (Section 1, Article III of the 1987 Constitution). The CARL was not intended to take away property without due process of law (*Development Bank of the Philippines vs. Court of Appeals*, 262 SCRA 245, 253 [1996]). The exercise of the power of eminent domain requires that due process be observed in the taking of private property.”

In the instant case, petitioner does not dispute that respondent did not receive the Notice of Acquisition and

Notice of Coverage sent to the latter's old address. Petitioner explained that its personnel could not effect personal service of those notices upon respondent because it changed its juridical name from Apex Investment and Financing Corporation to SM Investment Corporation. While it is true, that personal service could not be made, however, there is no showing that petitioner caused the service of the notices via registered mail as required by Section 16(a) of R.A. No. 6657. On this point, petitioner claimed that the notices were sent "not only by registered mail but also by personal delivery" and that there was actual receipt by respondent as shown by the signature appearing at the bottom left-hand corner of petitioner's copies of the notices. But petitioner could not identify the name of respondent's representative who allegedly received the notices. In fact, petitioner admitted that the signature thereon is illegible. It is thus safe to conclude that respondent was not notified of the compulsory acquisition proceedings. Clearly, respondent was deprived of its right to procedural due process. It is elementary that before a person can be deprived of his property, he should be informed of the claim against him and the theory on which such claim is premised.[8]

On the last assigned error, Section 4 of R.A. No. 6657 provides that the Comprehensive Agrarian Reform Law shall cover, regardless of tenurial arrangement and commodity produced, "all public and private agricultural lands." Section 3(c) defines "agricultural land," as "land devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential, commercial or industrial land."

Respondent vehemently insists that its lots had been classified as residential prior to June 15, 1988, the date of effectivity of R.A. No. 6657. As earlier mentioned, Engineer Gregorio Bermejo, Municipal Engineer and Deputized Zoning Administrator of Dasmariñas, Cavite, certified that respondent's lands are within the residential zone of Dasmariñas, based on the Land Use Plan of that municipality duly approved by the HLURB in its Resolution No. R-42-A-3 dated February 11, 1981. We observe, however, that this factual issue was never determined below. Thus, we cannot conclude that respondent's parcels of land are residential.

WHEREFORE, the challenged Decision dated April 26, 2001 of the Court of Appeals in CA-G.R. SP No. 55052 is AFFIRMED with MODIFICATION in the sense that we allow the DAR to conduct appropriate proceedings to determine whether the subject parcels of land are indeed residential and are thus outside the coverage of R.A. No. 6657.

SO ORDERED.

Puno (Chairman), Panganiban, Corona, and Carpio Morales, JJ., concur.

[1] Pursuant to Rule 45 of the 1997 Rules of Civil Procedure, as amended.

[2] Penned by Justice Bienvenido L. Reyes, with Justices Eubulo G. Verzola and Marina L. Buzon, concurring.

[3] *Province of Zamboanga del Norte vs. Court of Appeals*, G.R. No. 109853, October 11, 2000, 342 SCRA 549, 558.

[4] *Paat vs. Court of Appeals*, 334 Phil. 146, 153 (1997) citing *Quisumbing vs. Judge Gumban*, G.R. No. 85156, February 5, 1991, 193 SCRA 520.

[5] *Province of Zamboanga del Norte vs. Court of Appeals*, supra, citing *Paat vs. Court of Appeals*, supra; *China Banking Corporation vs. Members of the Board of Trustees*, HDMF, 366 Phil. 913 (1999); *Carale vs. Abarintos*, 336 Phil. 126 (1997); *Jariol vs. Comelec*, 336 Phil. 990 (1997); *Aquino-Sarmiento vs. Morato*, G.R. No. 92541, November 13, 1991, 203 SCRA 515; *Valmonte vs. Valmonte*, G.R. No. 74930, February 13, 1989, 170 SCRA 256; *Eastern Shipping Lines vs. POEA*, No. L-76633, October 18, 1988, 166 SCRA 533; *Aguilar vs. Valencia*,

148-B Phil. 97 (1971).

[6] G.R. No. 103302, August 12, 1993, 225 SCRA 278.

[7] 378 Phil. 727, 762-763 (1999).

[8] Ang Ping vs. Court of Appeals, G.R. No. 126947, July 15, 1999, 310 SCRA 343.

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