

ROXAS & COMPANY, INC., PETITIONER, VS. DAMBA-NFSW AND THE DEPARTMENT OF AGRARIAN REFORM, RESPONDENTS.

G.R. No. 149548. December 14, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

This resolves the Motion for Reconsideration filed on January 13, 2010 by Roxas & Co., Inc. (Roxas & Co.) and the Motion for Partial Reconsideration filed on January 29, 2010 by Damayan ng Manggagawang Bukid sa Asyenda Roxas-National Federation of Sugar Workers (DAMBA-NFSW) and Katipunan ng mga Magbubukid sa Hacienda Roxas, Inc. (KAMAHARI), et al., which both assail the Court's December 4, 2009 Decision in these consolidated cases.

After the above-mentioned Motions were filed, Roxas & Co. filed on April 26, 2010 a Motion to Hold in Abeyance the Resolution of its earlier Motion for Reconsideration.

Roxas & Co. moves for reconsideration on the following grounds:

- ...CLOA 6654, INsofar AS IT COVERS THE 3 PARCELS OF LAND WITH AN AGGREGATE AREA OF 103.1436 HECTARES, SHOULD BE CANCELLED IN VIEW OF THE FINAL AND EXECUTORY 02 APRIL 1996 COURT OF APPEALS DECISION EXEMPTING THE SAID PROPERTIES FROM THE COVERAGE OF THE COMPREHENSIVE AGRARIAN REFORM LAW (CARL).
- ...CLOA 6654, INsofar AS IT COVERS THE REMAINING 410 HECTARES, SHOULD BE CANCELLED PURSUANT TO SECTION IV (B) (10) OF DAR MEMORANDUM ORDER NO. 2, SERIES OF 1994.
- ...WITH THE CARP-EXEMPTION OF THE 9 PARCELS OF LAND WITH AN AGGREGATE AREA OF 45.9771 HECTARES, ROXAS' LIABILITY TO PAY DISTURBANCE COMPENSATION IS LIMITED TO ITS AGRICULTURAL LESSEES AND NOT TO ALL FARMER-BENEFICIARIES FOUND IN THE SUBJECT PROPERTIES PURSUANT TO REPUBLIC ACT NO. 3844, AS AMENDED, AND THE RULING IN BACALING VS. MUYA.
- ...THE ADDITIONAL CERTIFICATIONS WERE SUBMITTED TO PROVE THAT THE 51.5472-HECTARE PROPERTIES ARE CARP-EXEMPT, AND COROLLARILY, ADDRESS THE GROUNDS USED BY THEN DAR SECRETARY IN DENYING ROXAS' INITIAL EXEMPTION APPLICATION. THE ALLEGED INCONSISTENCIES ARE EITHER IMMATERIAL OR CAN BE READILY EXPLAINED.
- ...BASED ON THE EVIDENCE SUBMITTED BY ROXAS, THE 51.5472-HECTARE PROPERTIES SUBJECT OF ...G.R. NO. 179650 ARE CARP-EXEMPT. HENCE, THE PREMATURE INSTALLATION BY THE DAR OF SEVERAL FARMER-BENEFICIARIES IN THE PROPERTIES IS ILLEGAL.
- ...THE ROXAS LANDHOLDINGS SHOULD BE DECLARED EXEMPT FROM THE COVERAGE OF CARP.

- APPLYING DAR V. FRANCO..., THE ROXAS LANDHOLDINGS SHOULD BE DECLARED CARP-EXEMPT IN VIEW OF THE PTA ENACTMENT DELINEATING SPECIFIC TOURISM AREAS.
- CONSISTENT WITH THE DAR EXEMPTION ORDER CITED IN THE FRANCO CASE AND THE SUBMISSION OF THE OFFICE OF THE SOLICITOR GENERAL..., THE ROXAS LANDHOLDINGS, WHICH ARE (A) LOCATED WITHIN THE PTA-IDENTIFIED TOURISM PRIORITY AREAS AND (B) INCLUDED IN THE NASUGBU TOURISM DEVELOPMENT PLAN, SHOULD BE DECLARED CARP-EXEMPT.
- WITH THE PTA ENACTMENT, THE ROXAS LANDHOLDINGS ARE CARP-EXEMPT FOLLOWING THE COURT'S PRONOUNCEMENT THAT "THE ONLY TIME [THE NATALIA AND ALLARDE CASES] MAY FIND APPLICATION IS WHEN THE PTA ACTUALLY IDENTIFIES WELL-DEFINED GEOGRAPHIC AREAS WITHIN THE ZONE WITH POTENTIAL TOURISM VALUE." [1]

On the other hand, DAMBA-NFSW and KAMAHARI, et al. move for partial reconsideration of the assailed Decision on the following grounds:

I. THE [COURT] COMMITTED A REVERSIBLE ERROR IN RULING TO EXEMPT FROM CARP COVERAGE THE SUBJECT NINE (9) LOTS WITH ALLEGED AREA OF 45.9771 HECTARES OF HACIENDA PALICO BASED ON NASUGBU MUNICIPAL ZONING ORDINANCE NO. 4, SERIES OF 1982, NOTWITHSTANDING THE FACT THAT:

- ROXAS [& CO.] MISERABLY FAILED TO SHOW PROOF THAT THE SUBJECT ZONING ORDINANCE UNDER ZONE A. VII THEREOF, SPECIFICALLY DELINEATE THE SAID LOTS TO HAVE BEEN RE-CLASSIFIED TO NON-AGRICULTURAL USE;
- ROXAS [& CO.] HAS MERE FALSE CERTIFICATIONS ISSUED BY THE HLURB AND MPDC OF NASUGBU WHICH DO NOT FIND SUPPORT IN THE REFERRED MUNICIPAL ZONING ORDINANCE;
- ROXAS [& CO.] FAILED TO SUBMIT IN EVIDENCE THE COMPREHENSIVE LAND USE PLAN OF NASUGBU, BATANGAS PROVING SUCH RECLASSIFICATION TO NON-AGRICULTURAL USE OF SUBJECT LOTS PRIOR TO THE ENACTMENT OF R.A. 6657 ON JUNE 15, 1988; AND
- ROXAS [& CO.] MISERABLY FAILED TO IDENTIFY SUBJECT LOTS BOTH IN AREAS COVERED AND LOCATIONS.

II. GRANTING ARGUENDO THAT THE SUBJECT NASUGBU MUNICIPAL ZONING ORDINANCE NO. 4, SERIES OF 1982 IS A VALID BASIS FOR EXEMPTION FROM CARP COVERAGE OF SUBJECT PARCELS OF LAND, AND FURTHER GRANTING ARGUENDO THAT ROXAS WAS ABLE TO PROVE THAT THE SUBJECT LOTS ARE WITHIN THE PU[R]PORTED URBAN CORE ZONE..., STILL THE [COURT] COMMITTED A REVERSIBLE ERROR IN UPHOLDING THE COURT OF APPEALS AND THE DAR SECRETARY'[S] ORDER OF CARP EXEMPTION WITHOUT OBSERVING THE RIGHT OF THE FARMER-BENEFICIARIES TO PROCEDURAL DUE PROCESS.

Preliminarily, the Court denies Roxas & Co.'s Motion to Hold in Abeyance the Resolution of its earlier Motion for Reconsideration for lack of merit. Roxas & Co. asks the Court to hold its judgment on its motion for reconsideration pending the outcome of its application with the Tourism Infrastructure and Enterprise Zone Authority (TIEZA) for the designation of "fourteen 'geographic areas' of the Roxas Properties as [tourism enterprise zones], pursuant to ...the Tourism Act."

It bears stressing that Roxas & Co.'s pending application with TIEZA is totally immaterial to the resolution of the present petitions which delve mainly on the issue of whether the subject lands are exempt from Comprehensive

Agrarian Reform Program (CARP) coverage.

While the Court acknowledged the passage of the Tourism Act as another vehicle for potential tourism areas to be exempted from CARP coverage, that did not in any way pronounce as meritorious Roxas & Co.'s subsequent application with the TIEZA to declare its properties as tourism enterprise zones. That is for the TIEZA, not this Court, to determine. Whatever decision the TIEZA renders in Roxas & Co.'s application does not in any way affect the merits of these consolidated cases.

Roxas & Co. cannot have it both ways. It must either zealously argue its legal position if it believes it to be meritorious or altogether abandon it if it has reservations. Its Motion to Hold in Abeyance the Resolution of its earlier Motion for Reconsideration effectively coaxes the Court to wait for the outcome of its TIEZA application and ultimately delay the final resolution of these consolidated cases.

On Roxas & Co.'s Motion for Reconsideration, no substantial arguments were raised to warrant a reconsideration of the Decision. The Motion contains merely an amplification of the main arguments and factual matters already submitted to and pronounced without merit by the Court in its Decision. In the Court's considered view, nothing more is left to be discussed, clarified or done in these cases since all the main issues raised have been passed upon and definitely resolved.

Roxas & Co. raises the fringe issue that DAR Memorandum Circular No. 7 (Series of 2004) has no force and effect since the said DAR Memorandum Circular was not published and filed with the Office of the National Administrative Register.

The contention fails. It should be stressed that there is no need for the publication and filing of the said DAR Memorandum Circular with the ONAR as it is merely an administrative interpretation.[2]

Interpretative rule x x x x is promulgated by the administrative agency to interpret, clarify or explain statutory regulations under which the administrative body operates. The purpose or objective of an interpretative rule is merely to construe the statute being administered. It purports to do no more than interpret the statute. Simply, the rules tries to say what the statute means. Generally, it refers to no single person or party in particular but concerns all those belonging to the same class which may be covered by the said interpretative rule. It need not be published and neither is a hearing required since it is issued by the administrative body as an incident of its power to enforce the law and is intended merely to clarify statutory provisions for proper observance by the people. x x x x.[3] (Emphasis and underscoring supplied)

Roxas & Co. goes on to contend that its liability to pay disturbance compensation is limited to its agricultural lessees only and not to farmer-beneficiaries, citing Republic Act No. 3844 (RA 3844), as amended, and Bacaling v. Muya.[4]

Roxas & Co. is merely nitpicking on the issue. Since the DAR had initially issued CLOAs to the farmer-beneficiaries of the nine parcels of land in Hacienda Palico, the assailed Decision merely reiterated the original designation of the affected individuals as farmer-beneficiaries who should be entitled to disturbance compensation before the cancellation of their respective CLOAs is effected. This is in pursuance of the directive of DAR Administrative Order No. 6 (Series of 1994) which mandates the payment of disturbance compensation before Roxas & Co.'s application for exemption may be completely granted.

As for the Motion for Partial Reconsideration of DAMBA-NFSW and KAMAHARI, et al., the same likewise fails as it only rehashes earlier arguments which have been adequately passed upon by the Court. Notably, the main arguments raised by the Motion are evidentiary in nature that have been resolved by the DAR Secretary, whose decision on factual controversies deserve utmost respect, if not finality.

Finally, the Court reiterates the explanation of the DAR Secretary why CLOA holders need not be informed of the pending application for exemption, to wit:

As regards the first ground raised by [DAMBA-NSFW], it should be remembered that an application for CARP-exemption pursuant to DOJ Opinion No. 44, series of 1990, as implemented by DAR Administrative Order No. 6, series of 1994, is non-adversarial or non-litigious in nature. Hence, applicant is correct in saying that nowhere in the rules is it required that occupants of a landholding should be notified of an initiated or pending exemption application.

x x x x

With regard [to] the allegation that oppositors-movants are already CLOA holders of subject propert[ies] and deserve to be notified, as owners, of the initiated questioned exemption application, is of no moment. The Supreme Court in the case of Roxas [&] Co., Inc. v. Court of Appeals, 321 SCRA 106, held:

"We stress that the failure of respondent DAR to comply with the requisites of due process in the acquisition proceedings does not give this Court the power to nullify the CLOA's already issued to the farmer beneficiaries. x x x x. Anyhow, the farmer[-]beneficiaries hold the property in trust for the rightful owner of the land."

Since subject landholding has been validly determined to be CARP-exempt, therefore, the previous issuance of the CLOA of oppositors-movants is erroneous. Hence, similar to the situation of the above-quoted Supreme Court Decision, oppositors-movants only hold the property in trust for the rightful owners of the land and are not the owners of subject landholding who should be notified of the exemption application of applicant Roxas & Company, Incorporated.

Finally, this Office finds no substantial basis to reverse the assailed Orders since there is substantial compliance by the applicant with the requirements for the issuance of exemption clearance under DAR AO 6 (1994).[5]

WHEREFORE, the Motion for Reconsideration filed by Roxas & Co., Inc. and the Motion for Partial Reconsideration filed by DAMBA-NFSW and KAMAHARI are DENIED for lack of merit.

No further pleadings shall be entertained. Let entry of judgment be made in due course.

SO ORDERED.

Corona, C.J., Carpio, Velasco, Jr., Peralta, Del Castillo, Abad, Villarama, Perez, Mendoza, and Sereno, JJ., concur.

Nachura, J., no part. Filed pleading as Sol Gen.

Leonardo-De Castro, J., I maintain my vote to dissent in part from the decision of December 4, 2009.

Brion, J., no part.

Bersamin, J., no part due to prior action in CA.

[1] Rollo (G.R. No. 149548), pp. 1587-1588.

[2] Vide: Tañada v. Tuvera, G.R. No. L-63915, 24 April 1985, 146 SCRA 446, 454. See also Guidelines for Receiving and Publication of Rules and Regulations filed with the UP Law Center where interpretative rules need not be filed with the Office of the National Administrative Register.

[3] Commissioner of Internal Revenue v. Court of Appeals, G.R. No. 119761, August 29, 1996, 261 SCRA 236, 256.

[4] 430 Phil. 531 (2002).

[5] Rollo (G.R. No. 167505), pp. 525-527.

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