

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES,
REPRESENTED HEREIN BY ITS SECRETARY, HEHERSON T. ALVAREZ,
PETITIONER, VS. DENR REGION 12 EMPLOYEES, REPRESENTED BY
BAGUIDALI KAR...**

G.R. No. 149724. August 19, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a petition for review assailing the Resolutions dated May 31, 2000[1] of the Court of Appeals which dismissed the petition for certiorari in CA-G.R. SP No. 58896, and its Resolution dated August 20, 2001[2], which denied the motion for reconsideration.

The facts are as follows:

On November 15, 1999, Regional Executive Director of the Department of Environment and Natural Resources for Region XII, Israel C. Gaddi, issued a Memorandum[3] directing the immediate transfer of the DENR XII Regional Offices from Cotabato City to Koronadal (formerly Marbel), South Cotabato. The Memorandum was issued pursuant to DENR Administrative Order No. 99-14, issued by then DENR Secretary Antonio H. Cerilles, which reads in part:

Subject: Providing for the Redefinition of Functions and Realignment of Administrative Units in the Regional and Field Offices:

Pursuant to Executive Order No. 192, dated June 10, 1987 and as an interim administrative arrangement to improve the efficiency and effectiveness of the Department of Environment and Natural Resources (DENR) in delivering its services pending approval of the government-wide reorganization by Congress, the following redefinition of functions and realignment of administrative units in the regional and field offices are hereby promulgated:

Section 1. Realignment of Administrative Units:

The DENR hereby adopts a policy to establish at least one Community Environment and Natural Resources Office (CENRO) or Administrative Unit per Congressional District except in the Autonomous Region of Muslim Mindanao (ARMM) and the National Capital Region (NCR). The Regional Executive Directors (REDs) are hereby authorized to realign/relocate existing CENROs and implement this policy in accordance with the attached distribution list per region which forms part of this Order. Likewise, the following realignment and administrative arrangements are hereby adopted:

x x x x x x x x

1.6. The supervision of the Provinces of South Cotabato and Sarangani shall be transferred from Region XI to XII.[4]

Respondents, employees of the DENR Region XII who are members of the employees association, "COURAGE",

represented by their Acting President, Baguindanai A. Karim, filed with the Regional Trial Court of Cotabato, a petition for nullity of orders with prayer for preliminary injunction.

On December 8, 1999, the trial court issued a temporary restraining order enjoining petitioner from implementing the assailed Memorandum. The dispositive portion of the Order reads:

WHEREFORE, defendants DENR Secretary Antonio H. Cerilles and Regional Executive Director Israel C. Gaddi are hereby ordered to cease and desist from doing the act complained of, namely, to stop the transfer of DENR [Region] 12 offices from Cotabato City to Korandal (Marbel), South Cotabato.

xxx xxx xxx.

SO ORDERED.[5]

Petitioner filed a Motion for Reconsideration with Motion to Dismiss, raising the following grounds:

I.

The power to transfer the Regional Office of the Department of Environment and Natural Resources (DENR) is executive in nature.

II.

The decision to transfer the Regional Office is based on Executive Order No. 429, which reorganized Region XII.

III.

The validity of EO 429 has been affirmed by the Honorable Supreme Court in the Case of Chiongbian vs. Orbos (1995) 245 SCRA 255.

IV.

Since the power to reorganize the Administrative Regions is Executive in Nature citing Chiongbian, the Honorable Court has no jurisdiction to entertain this petition.[6]

On January 14, 2000, the trial court rendered judgment, the dispositive portion of which reads:

CONSEQUENTLY, order is hereby issued ordering the respondents herein to cease and desist from enforcing their Memorandum Order dated November 15, 1999 relative to the transfer of the DENR Regional Offices from Region 12 to Region 11 at Koronadal, South Cotabato for being bereft of legal basis and issued with grave abuse of discretion amounting to lack or excess of jurisdiction on their part, and they are further ordered to return back the seat of the DENR Regional Offices 12 to Cotabato City.

SO ORDERED.[7]

Petitioner's motion for reconsideration was denied in an Order dated April 10, 2000. A petition for certiorari under Rule 65 was filed before the Court of Appeals, docketed as CA-G.R. SP No. 58896. The petition was dismissed outright for: (1) failure to submit a written explanation why personal service was not done on the adverse party; (2) failure to attach affidavit of service; (3) failure to indicate the material dates when copies of the orders of the lower court were received; (4) failure to attach certified true copy of the order denying petitioner's motion for reconsideration; (5) for improper verification, the same being based on petitioner's "knowledge and belief," and (6) wrong remedy of certiorari under Rule 65 to substitute a lost appeal.[8]

The motion for reconsideration was denied in a resolution dated August 20, 2001.[9] Hence, this petition based on the following assignment of errors:

I

RULES OF PROCEDURE CAN NOT BE USED TO DEFEAT THE ENDS OF SUBSTANTIAL JUSTICE

II

THE DECISION OF THE LOWER COURT DATED 14 JANUARY 2000 WHICH WAS AFFIRMED IN THE QUESTIONED RESOLUTIONS OF THE COURT OF APPEALS DATED 31 MAY 2000 AND 20 AUGUST 2001 IS PATENTLY ILLEGAL AND SHOULD BE NULLIFIED, CONSIDERING THAT:

A.

RESPONDENTS HAVE NO CAUSE OF ACTION AGAINST PETITIONER AS THEY HAVE NO RIGHT TO CAUSE THE DENR REGION 12 OFFICE TO REMAIN IN COTABATO CITY.

B. THE STATE DID NOT GIVE ITS CONSENT TO BE SUED.

C.

THE DECISION OF THE LOWER COURT DATED 14 JANUARY 2000 IS CONTRARY TO THE RULE OF PRESUMPTION OF REGULARITY IN THE PERFORMANCE OF OFFICIAL FUNCTIONS.

D.

IN ANY EVENT, THE DECISION OF THE LOWER COURT DATED 14 JANUARY 2000 IS CONTRARY TO THE LETTER AND INTENT OF EXECUTIVE ORDER NO. 429 AND REPUBLIC ACT NO. 6734.

E.

THE DETERMINATION OF THE PROPRIETY AND PRACTICALITY OF THE TRANSFER OF REGIONAL OFFICES IS INHERENTLY EXECUTIVE, AND THEREFORE, NON-JUSTICIABLE.[10]

In essence, petitioner argues that the trial court erred in enjoining it from causing the transfer of the DENR XII Regional Offices, considering that it was done pursuant to DENR Administrative Order 99-14.

The issues to be resolved in this petition are: (1) Whether DAO-99-14 and the Memorandum implementing the same were valid; and (2) Whether the DENR Secretary has the authority to reorganize the DENR.

Prefatorily, petitioner prays for a liberal application of procedural rules considering the greater interest of justice.

This Court is fully aware that procedural rules are not to be simply disregarded for these prescribed procedures ensure an orderly and speedy administration of justice. However, it is equally true that litigation is not merely a game of technicalities. Time and again, courts have been guided by the principle that the rules of procedure are not to be applied in a very rigid and technical manner, as rules of procedure are used only to help secure and not to override substantial justice.[11] Thus, if the application of the Rules would tend to frustrate rather than promote justice, it is always within the power of this Court to suspend the rules, or except a particular case from its operation.[12]

Despite the presence of procedural flaws, we find it necessary to address the issues because of the demands of public interest, including the need for stability in the public service and the serious implications this case may cause on the effective administration of the executive department. Although no appeal was made within the reglementary period to appeal, nevertheless, the departure from the general rule that the extraordinary writ of certiorari cannot be a substitute for the lost remedy of appeal is justified because the execution of the assailed decision would amount to an oppressive exercise of judicial authority.[13]

Petitioner maintains that the assailed DAO-99-14 and the implementing memorandum were valid and that the trial

court should have taken judicial notice of Republic Act No. 6734, otherwise known as "An Organic Act for the Autonomous Region in Muslim Mindanao," and its implementing Executive Order 429,[14] as the legal bases for the issuance of the assailed DAO-99-14. Moreover, the validity of R.A. No. 6734 and E.O. 429 were upheld in the case of *Chiongbian v. Orbos*.^[15] Thus, the respondents cannot, by means of an injunction, force the DENR XII Regional Offices to remain in Cotabato City, as the exercise of the authority to transfer the same is executive in nature.

It is apropos to reiterate the elementary doctrine of qualified political agency, thus:

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 or 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.^[16]

This doctrine is corollary to the control power of the President as provided for under Article VII, Section 17 of the 1987 Constitution, which reads:

Sec. 17. The President shall have control of all the executive departments, bureaus, and offices. He shall ensure that the laws be faithfully executed.

However, as head of the Executive Department, the President cannot be expected to exercise his control (and supervisory) powers personally all the time. He may delegate some of his powers to the Cabinet members except when he is required by the Constitution to act in person or the exigencies of the situation demand that he acts personally.^[17]

In *Buklod ng Kawaning EIIB v. Zamora*,^[18] this Court upheld the continuing authority of the President to carry out the reorganization in any branch or agency of the executive department. Such authority includes the creation, alteration or abolition of public offices.^[19] The Chief Executive's authority to reorganize the National Government finds basis in Book III, Section 20 of E.O. No. 292, otherwise known as the Administrative Code of 1987, viz:

Section 20. Residual Powers. - Unless Congress provides otherwise, the President shall exercise such other powers and functions vested in the President which are provided for under the laws and which are not specifically enumerated above or which are not delegated by the President in accordance with law.

Further, in *Larin v. Executive Secretary*,^[20] this Court had occasion to rule:

This provision speaks of such other powers vested in the President under the law. What law then gives him the power to reorganize? It is Presidential Decree No. 1772 which amended Presidential Decree No. 1416. These decrees expressly grant the President of the Philippines the continuing authority to reorganize the national government, which includes the power to group, consolidate bureaus and agencies, to abolish offices, to transfer functions, to create and classify functions, services and activities and to standardize salaries and materials. The validity of these two decrees is unquestionable. The 1987 Constitution clearly provides that "all laws, decrees, executive orders, proclamations, letters of instructions and other executive issuances not inconsistent with this Constitution shall remain operative until amended, repealed or revoked." So far, there is yet no law amending or repealing said decrees.

Applying the doctrine of qualified political agency, the power of the President to reorganize the National

Government may validly be delegated to his cabinet members exercising control over a particular executive department. Thus, in *DOTC Secretary v. Mabalot*,^[21] we held that the President - through his duly constituted political agent and alter ego, the DOTC Secretary - may legally and validly decree the reorganization of the Department, particularly the establishment of DOTC-CAR as the LTFRB Regional Office at the Cordillera Administrative Region, with the concomitant transfer and performance of public functions and responsibilities appurtenant to a regional office of the LTFRB.

Similarly, in the case at bar, the DENR Secretary can validly reorganize the DENR by ordering the transfer of the DENR XII Regional Offices from Cotabato City to Koronadal, South Cotabato. The exercise of this authority by the DENR Secretary, as an alter ego, is presumed to be the acts of the President for the latter had not expressly repudiated the same.

The trial court should have taken judicial notice of R.A. No. 6734, as implemented by E.O. No. 429, as legal basis of the President's power to reorganize the executive department, specifically those administrative regions which did not vote for their inclusion in the ARMM. It is axiomatic that a court has the mandate to apply relevant statutes and jurisprudence in determining whether the allegations in a complaint establish a cause of action. While it focuses on the complaint, a court clearly cannot disregard decisions material to the proper appreciation of the questions before it.^[22] In resolving the motion to dismiss, the trial court should have taken cognizance of the official acts of the legislative, executive, and judicial departments because they are proper subjects of mandatory judicial notice as provided by Section 1 of Rule 129 of the Rules of Court, to wit:

A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions. (Emphasis supplied)

Article XIX, Section 13 of R.A. No. 6734 provides:

SECTION 13. The creation of the Autonomous Region in Muslim Mindanao shall take effect when approved by a majority of the votes cast by the constituent units provided in paragraph (2) of Sec. 1 of Article II of this Act in a plebiscite which shall be held not earlier than ninety (90) days or later than one hundred twenty (120) days after the approval of this Act: Provided, That only the provinces and cities voting favorably in such plebiscite shall be included in the Autonomous Region in Muslim Mindanao. The provinces and cities which in the plebiscite do not vote for inclusion in the Autonomous Region shall remain in the existing administrative regions: Provided, however, That the President may, by administrative determination, merge the existing regions.

Pursuant to the authority granted by the aforementioned provision, then President Corazon C. Aquino issued on October 12, 1990 E.O. 429, "Providing for the Reorganization of the Administrative Regions in Mindanao." Section 4 thereof provides:

SECTION 4. REGION XII, to be known as CENTRAL MINDANAO, shall include the following provinces and cities:

Provinces

Sultan Kudarat

Cotabato

South Cotabato

Cities

Cotabato

General Santos

The Municipality of Koronadal (Marinduque) in South Cotabato shall serve as the regional center.

In *Chiongbian v. Orbos*, this Court stressed the rule that the power of the President to reorganize the administrative regions carries with it the power to determine the regional centers. In identifying the regional centers, the President purposely intended the effective delivery of the field services of government agencies.[23] The same intention can be gleaned from the preamble of the assailed DAO-99-14 which the DENR sought to achieve, that is, to improve the efficiency and effectiveness of the DENR in delivering its services.

It may be true that the transfer of the offices may not be timely considering that: (1) there are no buildings yet to house the regional offices in Koronadal, (2) the transfer falls on the month of Ramadan, (3) the children of the affected employees are already enrolled in schools in Cotabato City, (4) the Regional Development Council was not consulted, and (5) the Sangguniang Panglungsond, through a resolution, requested the DENR Secretary to reconsider the orders. However, these concern issues addressed to the wisdom of the transfer rather than to its legality. It is basic in our form of government that the judiciary cannot inquire into the wisdom or expediency of the acts of the executive or the legislative department,[24] for each department is supreme and independent of the others, and each is devoid of authority not only to encroach upon the powers or field of action assigned to any of the other department, but also to inquire into or pass upon the advisability or wisdom of the acts performed, measures taken or decisions made by the other departments.[25]

The Supreme Court should not be thought of as having been tasked with the awesome responsibility of overseeing the entire bureaucracy. Unless there is a clear showing of constitutional infirmity or grave abuse of discretion amounting to lack or excess of jurisdiction, the Court's exercise of the judicial power, pervasive and limitless it may seem to be, still must succumb to the paramount doctrine of separation of powers.[26] After a careful review of the records of the case, we find that this jurisprudential element of abuse of discretion has not been shown to exist.

WHEREFORE, in view of the foregoing, the petition for review is GRANTED. The resolutions of the Court of Appeals in CA-G.R. SP No. 58896 dated May 31, 2000 and August 20, 2001, as well as the decision dated January 14, 2000 of the Regional Trial Court of Cotabato City, Branch 15, in Civil Case No 389, are REVERSED and SET ASIDE. The permanent injunction, which enjoined the petitioner from enforcing the Memorandum Order of the DENR XII Regional Executive Director, is LIFTED.

SO ORDERED.

Vitug, Carpio, and Azcuna, JJ., concur.

Davide, Jr., C.J., abroad, on official business.

[1] Penned by Associate Justice Mariano M. Umali and concurred in by Associate Justices Conrado M. Vasquez and Eriberto V. Rosario, Jr.

[2] Penned by Associate Justice Conrado M. Vasquez and concurred in by Associate Justices Eriberto V. Rosario, Jr. and Juan Q. Enriquez, Jr.

[3] Rollo, p. 81.

[4] Id., pp. 82-85.

[5] Id., p. 99.

[6] Id., p. 8.

[7] Id., p. 80.

[8] Id., pp. 40-41.

[9] Id., pp. 43-45.

[10] Id., p. 4.

[11] Reyes v. Pepito, G.R. No. 131686, 18 March 2002.

[12] Coronel v. Desierto, G.R. No. 149022, 8 April 2003.

[13] Metropolitan Manila Development Authority v. Jancom Environmental Corporation, G.R. No. 147465, 30 January 2002, citing Ruiz v. Court of Appeals, G.R. No. 101566, 26 March 1993, 220 SCRA 490.

[14] "Providing for the Reorganization of the Administrative Regions in Mindanao and for other purposes."

[15] 315 Phil. 251 [1995].

[16] Joson v. Executive Secretary Reuben Torres, G.R. No. 131255, 20 May 1998, 290 SCRA 279, 303.

[17] Id.

[18] 413 Phil. 281, 295 [2001].

[19] DOTC Secretary v. Mabalot, G.R. No. 138200, 27 February 2002.

[20] 345 Phil. 962, 979 [1997].

[21] Supra.

[22] Peltan Development, Inc. v. CA, 336 Phil. 824, 834 [1997].

[23] E.O. No. 429.

[24] Separate Opinion, Panganiban, J., Garcia v. Corona, 378 Phil. 848, 876 [1999].

[25] Javellana v. Executive Secretary, 151-A Phil. 35 [1973].

[26] Separate Opinion, Vitug, J., Republic v. Court of Appeals, 335 Phil. 664 [1997].

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