HOLY SPIRIT HOMEOWNERS ASSOCIATION, INC. AND NESTORIO F. APOLINARIO, IN HIS PERSONAL CAPACITY AND AS PRESIDENT OF HOLY SPIRIT HOMEOWNERS ASSOCIATION, INC., PETITIONERS, VS. SECR...

G.R. NO. 163980. August 03, 2006

Ponente: TINGA, J.

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TINGA, J.:

The instant petition for prohibition under Rule 65 of the 1997 Rules of Civil Procedure, with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, seeks to prevent respondents from enforcing the implementing rules and regulations (IRR) of Republic Act No. 9207, otherwise known as the "National Government Center (NGC) Housing and Land Utilization Act of 2003."

Petitioner Holy Spirit Homeowners Association, Inc. (Association) is a homeowners association from the West Side of the NGC. It is represented by its president, Nestorio F. Apolinario, Jr., who is a co-petitioner in his own personal capacity and on behalf of the association.

Named respondents are the ex-officio members of the National Government Center Administration Committee (Committee). At the filing of the instant petition, the Committee was composed of Secretary Michael Defensor, Chairman of the Housing and Urban Development Coordinating Council (HUDCC), Atty. Edgardo Pamintuan, General Manager of the National Housing Authority (NHA), Mr. Percival Chavez, Chairman of the Presidential Commission for Urban Poor (PCUP), Mayor Feliciano Belmonte of Quezon City, Secretary Elisea Gozun of the Department of Environment and Natural Resources (DENR), and Secretary Florante Soriquez of the Department of Public Works and Highways (DPWH).

Prior to the passage of R.A. No. 9207, a number of presidential issuances authorized the creation and development of what is now known as the National Government Center (NGC).

On March 5, 1972, former President Ferdinand Marcos issued Proclamation No. 1826, reserving a parcel of land in Constitution Hills, Quezon City, covering a little over 440 hectares as a national government site to be known as the NGC.[1]On August 11, 1987, then President Corazon Aquino issued Proclamation No. 137, excluding 150 of the 440 hectares of the reserved site from the coverage of Proclamation No. 1826 and authorizing instead the disposition of the excluded portion by direct sale to the bona fide residents therein.[2]In view of the rapid increase in population density in the portion excluded by Proclamation No. 137 from the coverage of Proclamation No. 1826, former President Fidel Ramos issued Proclamation No. 248 on September 7, 1993, authorizing the vertical development of the excluded portion to maximize the number of families who can effectively become beneficiaries of the government's socialized housing program.[3]On May 14, 2003, President Gloria Macapagal-Arroyo signed into law R.A. No. 9207. Among the salient provisions of the law are the following:

> Sec. 2. Declaration of Policy.– It is hereby declared the policy of the State to secure the land tenure of the

> urban poor. Toward this end, lands located in the NGC, Quezon City shall be utilized for housing, socioeconomic, civic, educational, religious and other purposes.
>
> Sec. 3. Disposition of Certain Portions of the National Government Center Site to Bona Fide Residents. – Proclamation No. 1826, Series of 1979, is hereby amended by excluding from the coverage thereof, 184 hectares on the west side and 238 hectares on the east side of Commonwealth Avenue, and declaring the same open for disposition to bona fide residents therein: Provided, That the determination of the bona fide residents on the west side shall be based on the census survey conducted in 1994 and the determination of the bona fide residents on the east side shall be based on the census survey conducted in 1994 and occupancy verification survey conducted in 2000: Provided, further, That all existing legal agreements, programs and plans signed, drawn up or implemented and actions taken, consistent with the provisions of this Act are hereby adopted.
>
> Sec. 4. Disposition of Certain Portions of the National Government Center Site for Local Government or Community Facilities, Socioeconomic, Charitable, Educational and Religious Purposes. – Certain portions of land within the aforesaid area for local government or community facilities, socioeconomic, charitable, educational and religious institutions are hereby reserved for disposition for such purposes: Provided, That only those institutions already operating and with existing facilities or structures, or those occupying the land may avail of the disposition program established under the provisions this Act; Provided, further, That in ascertaining the specific areas that may be disposed of in favor of these institutions, the existing site allocation shall be used as basis therefore: Provided, finally. That in determining the reasonable lot allocation of such institutions without specific lot allocations, the land area that may be allocated to them shall be based on the area actually used by said institutions at the time of effectivity of this Act. (Emphasis supplied.)

In accordance with Section 5 of R.A. No. 9207,[4] the Committee formulated the Implementing Rules and Regulations (IRR) of R.A. No. 9207 on June 29, 2004. Petitioners subsequently filed the instant petition, raising the following issues:

> WHETHER OR NOT SECTION 3.1 (A.4), 3.1 (B.2), 3.2 (A.1) AND 3.2 (C.1) OF THE RULES AND REGULATIONS OF REPUBLIC ACT NO. 9207, OTHERWISE KNOWN AS "NATIONAL GOVERNMENT CENTER (NGC) HOUSING AND LAND UTILIZATION ACT OF 2003" SHOULD BE DECLARED NULL AND VOID FOR BEING INCONSISTENT WITH THE LAW IT SEEKS TO IMPLEMENT.
>
> WHETHER OR NOT SECTION 3.1 (A.4), 3.1 (B.2), 3.2 (A.1) AND 3.2 (C.1) OF THE RULES AND REGULATIONS OF REPUBLIC ACT NO. 9207, OTHERWISE KNOWN AS "NATIONAL GOVERNMENT CENTER (NGC) HOUSING AND LAND UTILIZATION ACT OF 2003" SHOULD BE DECLARED NULL AND VOID FOR BEING ARBITRARY, CAPRICIOUS AND WHIMSICAL.[5]

First, the procedural matters.

The Office of the Solicitor General (OSG) argues that petitioner Association cannot question the implementation of Section 3.1 (b.2) and Section 3.2 (c.1) since it does not claim any right over the NGC East Side. Section 3.1 (b.2) provides for the maximum lot area that may be awarded to a resident-beneficiary of the NGC East Side, while Section 3.2 (c.1) imposes a lot price escalation penalty to a qualified beneficiary who fails to execute a contract to sell within the prescribed period.[6] Also, the OSG contends that since petitioner association is not the duly recognized people's organization in the NGC and since petitioners not qualify as beneficiaries, they cannot question the manner of disposition of lots in the NGC.[7]"Legal standing" or locus standi has been defined as a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged.... The gist of the question of standing is whether a party alleges "such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional

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questions."[8]Petitioner association has the legal standing to institute the instant petition, whether or not it is the duly recognized association of homeowners in the NGC. There is no dispute that the individual members of petitioner association are residents of the NGC. As such they are covered and stand to be either benefited or injured by the enforcement of the IRR, particularly as regards the selection process of beneficiaries and lot allocation to qualified beneficiaries. Thus, petitioner association may assail those provisions in the IRR which it believes to be unfavorable to the rights of its members. Contrary to the OSG's allegation that the failure of petitioner association and its members to qualify as beneficiaries effectively bars them from questioning the provisions of the IRR, such circumstance precisely operates to confer on them the legal personality to assail the IRR. Certainly, petitioner and its members have sustained direct injury arising from the enforcement of the IRR in that they have been disqualified and eliminated from the selection process. While it is true that petitioners claim rights over the NGC West Side only and thus cannot be affected by the implementation of Section 3.1 (b.2), which refers to the NGC East Side, the rest of the assailed provisions of the IRR, namely, Sections 3.1 (a.4), 3.2 (a.1) and 3.2 (c.1), govern the disposition of lots in the West Side itself or all the lots in the NGC.

We cannot, therefore, agree with the OSG on the issue of locus standi. The petition does not merit dismissal on that ground.

There are, however, other procedural impediments to the granting of the instant petition. The OSG claims that the instant petition for prohibition is an improper remedy because the writ of prohibition does not lie against the exercise of a quasi-legislative function.[9] Since in issuing the questioned IRR of R.A. No. 9207, the Committee was not exercising judicial, quasi-judicial or ministerial function, which is the scope of a petition for prohibition under Section 2, Rule 65 of the 1997 Rules of Civil Procedure, the instant prohibition should be dismissed outright, the OSG contends. For their part, respondent Mayor of Quezon City[10] and respondent NHA[11] contend that petitioners violated the doctrine of hierarchy of courts in filing the instant petition with this Court and not with the Court of Appeals, which has concurrent jurisdiction over a petition for prohibition.

The cited breaches are mortal. The petition deserves to be spurned as a consequence.

Administrative agencies possess quasi-legislative or rule-making powers and quasi-judicial or administrative adjudicatory powers. Quasi-legislative or rule-making power is the power to make rules and regulations which results in delegated legislation that is within the confines of the granting statute and the doctrine of non-delegability and separability of powers.[12]In questioning the validity or constitutionality of a rule or regulation issued by an administrative agency, a party need not exhaust administrative remedies before going to court. This principle, however, applies only where the act of the administrative agency concerned was performed pursuant to its quasi-judicial function, and not when the assailed act pertained to its rule-making or quasi-legislative power.[13]

The assailed IRR was issued pursuant to the quasi-legislative power of the Committee expressly authorized by R.A. No. 9207. The petition rests mainly on the theory that the assailed IRR issued by the Committee is invalid on the ground that it is not germane to the object and purpose of the statute it seeks to implement. Where what is assailed is the validity or constitutionality of a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same.[14]Since the regular courts have jurisdiction to pass upon the validity of the assailed IRR issued by the Committee in the exercise of its quasi-legislative power, the judicial course to assail its validity must follow the doctrine of hierarchy of courts. Although the Supreme Court, Court of Appeals and the Regional Trial Courts have concurrent jurisdiction to issue writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction, such concurrence does not give the petitioner unrestricted freedom of choice of court forum.[15]True, this Court has the full discretionary power to take cognizance of the petition filed directly with it if compelling reasons, or the

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nature and importance of the issues raised, so warrant.[16] A direct invocation of the Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.[17]In Heirs of Bertuldo Hinog v. Melicor,[18] the Court said that it will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts, and exceptional and compelling circumstances, such as cases of national interest and of serious implications, justify the availment of the extraordinary remedy of writ of certiorari, calling for the exercise of its primary jurisdiction.[19] A perusal, however, of the petition for prohibition shows no compelling, special or important reasons to warrant the Court's taking cognizance of the petition in the first instance. Petitioner also failed to state any reason that precludes the lower courts from passing upon the validity of the questioned IRR. Moreover, as provided in Section 5, Article VIII of the
Constitution,[20] the Court's power to evaluate the validity of an implementing rule or regulation is generally appellate in nature. Thus, following the doctrine of hierarchy of courts, the instant petition should have been initially filed with the Regional Trial Court.

A petition for prohibition is also not the proper remedy to assail an IRR issued in the exercise of a quasi-legislative function. Prohibition is an extraordinary writ directed against any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, ordering said entity or person to desist from further proceedings when said proceedings are without or in excess of said entity's or person's jurisdiction, or are accompanied with grave abuse of discretion, and there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law.[21] Prohibition lies against judicial or ministerial functions, but not against legislative or quasi-legislative functions. Generally, the purpose of a writ of prohibition is to keep a lower court within the limits of its jurisdiction in order to maintain the administration of justice in orderly channels.[22] Prohibition is the proper remedy to afford relief against usurpation of jurisdiction or power by an inferior court, or when, in the exercise of jurisdiction in handling matters clearly within its cognizance the inferior court transgresses the bounds prescribed to it by the law, or where there is no adequate remedy available in the ordinary course of law by which such relief can be obtained.[23] Where the principal relief sought is to invalidate an IRR, petitioners' remedy is an ordinary action for its nullification, an action which properly falls under the jurisdiction of the Regional Trial Court. In any case, petitioners' allegation that "respondents are performing or threatening to perform functions without or in excess of their jurisdiction" may appropriately be enjoined by the trial court through a writ of injunction or a temporary restraining order.

In a number of petitions,[24] the Court adequately resolved them on other grounds without adjudicating on the constitutionality issue when there were no compelling reasons to pass upon the same. In like manner, the instant petition may be dismissed based on the foregoing procedural grounds. Yet, the Court will not shirk from its duty to rule on the merits of this petition to facilitate the speedy resolution of this case. In proper cases, procedural rules may be relaxed or suspended in the interest of substantial justice. And the power of the Court to except a particular case from its rules whenever the purposes of justice require it cannot be questioned.[25]Now, we turn to the substantive aspects of the petition. The outcome, however, is just as dismal for petitioners.

Petitioners assail the following provisions of the IRR:

> Section 3. Disposition of Certain portions of the NGC Site to the bonafide residents
>
> 3.1. Period for Qualification of Beneficiaries
>
> x x x x
>
> (a.4) Processing and evaluation of qualifications shall be based on the Code of Policies and subject to the condition that a beneficiary is qualified to acquire only one (1) lot with a minimum of 36 sq. m. and maximum

of 54 sq. m. and subject further to the availability of lots.

x x x x

(b.2) Applications for qualification as beneficiary shall be processed and evaluated based on the Code of Policies including the minimum and maximum lot allocation of 35 sq. m. and 60 sq. m.

x x x x

3.2. Execution of the Contract to Sell

(a) Westside

(a.1) All qualified beneficiaries shall execute Contract to Sell (CTS) within sixty (60) days from the effectivity of the IRR in order to avail of the lot at P700.00 per sq. m.

x x x x

(c) for both eastside and westside

(c.1) Qualified beneficiaries who failed to execute CTS on the deadline set in item a.1 above in case of westside and in case of eastside six (6) months after approval of the subdivision plan shall be subjected to lot price escalation.

The rate shall be based on the formula to be set by the National Housing Authority factoring therein the affordability criteria. The new rate shall be approved by the NGC-Administration Committee (NGC-AC).

Petitioners contend that the aforequoted provisions of the IRR are constitutionally infirm as they are not germane to and/or are in conflict with the object and purpose of the law sought to be implemented.

First. According to petitioners, the limitation on the areas to be awarded to qualified beneficiaries under Sec. 3.1 (a.4) and (b.2) of the IRR is not in harmony with the provisions of R.A. No. 9207, which mandates that the lot allocation to qualified beneficiaries shall be based on the area actually used or occupied by bona fide residents without limitation to area. The argument is utterly baseless.

The beneficiaries of lot allocations in the NGC may be classified into two groups, namely, the urban poor or the bona fide residents within the NGC site and certain government institutions including the local government. Section 3, R.A. No. 9207 mandates the allocation of additional property within the NGC for disposition to its bona fide residents and the manner by which this area may be distributed to qualified beneficiaries. Section 4, R.A. No. 9207, on the other hand, governs the lot disposition to government institutions. While it is true that Section 4 of R.A. No. 9207 has a proviso mandating that the lot allocation shall be based on the land area actually used or occupied at the time of the law's effectivity, this proviso applies only to institutional beneficiaries consisting of the local government, socioeconomic, charitable, educational and religious institutions which do not have specific lot allocations, and not to the bona fide residents of NGC. There is no proviso which even hints that a bona fide resident of the NGC is likewise entitled to the lot area actually occupied by him.

Petitioners' interpretation is also not supported by the policy of R.A. No. 9207 and the prior proclamations establishing the NGC. The government's policy to set aside public property aims to benefit not only the urban poor but also the local government and various government institutions devoted to socioeconomic, charitable, educational and religious purposes.[26] Thus, although Proclamation No. 137 authorized the sale of lots to bona fide residents in the NGC, only a third of the entire area of the NGC was declared open for disposition subject to the condition that those portions being used or earmarked for public or quasi-public purposes would be excluded from the housing program for NGC residents. The same policy of rational and optimal land use can be read in

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Proclamation No. 248 issued by then President Ramos. Although the proclamation recognized the rapid increase in the population density in the NGC, it did not allocate additional property within the NGC for urban poor housing but instead authorized the vertical development of the same 150 hectares identified previously by Proclamation No. 137 since the distribution of individual lots would not adequately provide for the housing needs of all the bona fide residents in the NGC.

In addition, as provided in Section 4 of R.A. No. 9207, the institutional beneficiaries shall be allocated the areas actually occupied by them; hence, the portions intended for the institutional beneficiaries is fixed and cannot be allocated for other non-institutional beneficiaries. Thus, the areas not intended for institutional beneficiaries would have to be equitably distributed among the bona fide residents of the NGC. In order to accommodate all qualified residents, a limitation on the area to be awarded to each beneficiary must be fixed as a necessary consequence.

Second. Petitioners note that while Sec. 3.2 (a.1) of the IRR fixes the selling rate of a lot at P700.00 per sq. m., R.A. No. 9207 does not provide for the price. They add Sec. 3.2 (c.1) penalizes a beneficiary who fails to execute a contract to sell within six (6) months from the approval of the subdivision plan by imposing a price escalation, while there is no such penalty imposed by R.A. No. 9207. Thus, they conclude that the assailed provisions conflict with R.A. No. 9207 and should be nullified. The argument deserves scant consideration.

Where a rule or regulation has a provision not expressly stated or contained in the statute being implemented, that provision does not necessarily contradict the statute. A legislative rule is in the nature of subordinate legislation, designed to implement a primary legislation by providing the details thereof.[27] All that is required is that the regulation should be germane to the objects and purposes of the law; that the regulation be not in contradiction to but in conformity with the standards prescribed by the law.[28]In Section 5 of R.A. No. 9207, the Committee is granted the power to administer, formulate guidelines and policies, and implement the disposition of the areas covered by the law. Implicit in this authority and the statute's objective of urban poor housing is the power of the Committee to formulate the manner by which the reserved property may be allocated to the beneficiaries. Under this broad power, the Committee is mandated to fill in the details such as the qualifications of beneficiaries, the selling price of the lots, the terms and conditions governing the sale and other key particulars necessary to implement the objective of the law. These details are purposely omitted from the statute and their determination is left to the discretion of the Committee because the latter possesses special knowledge and technical expertise over these matters.

The Committee's authority to fix the selling price of the lots may be likened to the rate-fixing power of administrative agencies. In case of a delegation of rate-fixing power, the only standard which the legislature is required to prescribe for the guidance of the administrative authority is that the rate be reasonable and just. However, it has been held that even in the absence of an express requirement as to reasonableness, this standard may be implied.[29] In this regard, petitioners do not even claim that the selling price of the lots is unreasonable.

The provision on the price escalation clause as a penalty imposed to a beneficiary who fails to execute a contract to sell within the prescribed period is also within the Committee's authority to formulate guidelines and policies to implement R.A. No. 9207. The Committee has the power to lay down the terms and conditions governing the disposition of said lots, provided that these are reasonable and just. There is nothing objectionable about prescribing a period within which the parties must execute the contract to sell. This condition can ordinarily be found in a contract to sell and is not contrary to law, morals, good customs, public order, or public policy.

Third. Petitioners also suggest that the adoption of the assailed IRR suffers from a procedural flaw. According to them the IRR was adopted and concurred in by several representatives of people's organizations contrary to the

express mandate of R.A. No. 9207 that only two representatives from duly recognized peoples' organizations must compose the NGCAC which promulgated the assailed IRR. It is worth noting that petitioner association is not a duly recognized people's organization.

In subordinate legislation, as long as the passage of the rule or regulation had the benefit of a hearing, the procedural due process requirement is deemed complied with. That there is observance of more than the minimum requirements of due process in the adoption of the questioned IRR is not a ground to invalidate the same.

In sum, the petition lacks merit and suffers from procedural deficiencies.

WHEREFORE, the instant petition for prohibition is DISMISSED. Costs against petitioners.

SO ORDERED.

Panganiban, C.J., In the result.
Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Chico-Nazario, Garcia and Velasco, Jr., JJ., concur.

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[1] Rollo, p. 6.

[2] Id. at 7.

[3] Id.

[4] Sec. 5. National Government Center Administration Committee. – There is hereby created a National Government Center Administration Committee to administer, formulate guidelines and policies, and implement the land disposition of the areas covered by this Act. xxx

[5]Rollo, p. 12.

[6]Id. at 80.

[7]Id. at 82.

[8] Sanlakas v. Executive Secretary, G.R. No. 159085, February 3, 2004, 421 SCRA 656, 665, citing IBP v. Zamora, G.R. No. 141284, August 15, 2000, 338 SCRA 81.

[9] Rollo, p. 81.

[10] Id. at 51.

[11]Id. at 66.

[12] Smart Communications, Inc. v. National Telecommunications Commission, 456 Phil. 145, 155 (2003).

[13] Id. at 157.

[14]Id. at 158.

[15] Heirs of Bertuldo Hinog v. Melicor, G.R. No. 140954, April 12, 2005, 455 SCRA 460, 470.

[16] Fortich v. Corona, 352 Phil. 461, 480 (1998).

[17]Id. at 481.

[18]Heirs of Bertuldo Hinog v. Melicor, supra.

[19]Id. at 471.

[20] Constitution, Art. VIII, Sec. 5 states: The Supreme Court shall have the following powers:

xxx

(2) Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

> (a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decrees, proclamation, order, instruction, ordinance, or regulation is in question. x x x

[21] Rules of Court, Rule 65, Sec. 2.

[22] David v. Rivera, G.R. Nos. 139913 & 140159, January 16, 2004, 420 SCRA 90, 100.

[23]Id.

[24] Development Bank of the Phils. v. Commission on Audit, 424 Phil. 411 (2002); Planters Products, Inc. v. Court of Appeals, 375 Phil. 615 (1999); Spouses Mirasol v. Court of Appeals, 403 Phil. 761 (2001).

[25] Philippine National Bank v. Sanao Marketing Corporation, G.R. No. 153951, July 29, 2005.

[26] Republic Act No. 9207 (2003), Sec. 2, provides: Declaration of Policy. – It is hereby declared the policy of the State to secure the land tenure of the urban poor. Toward this end, lands located in the NGC, Quezon City shall be utilized for housing, socioeconomic, civic, educational, religious and other purposes.

[27] Commissioner on Internal Revenue v. Court of Appeals, 329 Phil. 987, 1006-1007 (1996), citing Misamis Oriental Association of Coco Traders, Inc. v. Department of Finance Secretary, 238 SCRA 63.

[28] Sigre v. Court of Appeals, 435 Phil. 711, 719 (2002).

[29] Philippine Communications Satellite Corporation v. Alcuaz, G.R. No. 84818, December 18, 1989, 180 SCRA 218, 225-226.

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