

HONESTO V. FERRER, JR., AND ROMEO E. ESPERA, PETITIONERS, VS. MAYOR SULPICIO S. ROCO, JR., IN HIS CAPACITY AS MAYOR OF NAGA CITY, SANGGUNIAN PANGLUNGSOD OF THE CITY OF NAGA, AN...

G.R. No. 174129. July 05, 2010

Ponente: MENDOZA, J.

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MENDOZA, J.:

At bench is a petition for review under Rule 45 of the Rules of Court. filed by petitioners Honesto V. Ferrer, Jr. and Romeo E. Espera against respondents Mayor Sulpicio S. Roco, Jr., in his capacity as mayor of Naga City; the Sangguniang Panglungsod of the City of Naga; and Peñafrancia Memorial Park Corporation or "PMPC" (formerly ARE Square Realty Development Corporation).

The petition challenges (1) the April 21, 2006 Decision of the Court of Appeals[1] affirming in toto the April 17, 2001 Order[2] of the Regional Trial Court, Naga City, Branch 24; and (2) its August 9, 2006 Resolution[3] denying the Motion for Reconsideration filed by the petitioners.

THE RELEVANT ANTECEDENTS:

Wenceslao D. San Andres, Jose A. Ocampo, Crisensana M. Vargas, Honesto V. Ferrer, Jr., Alfonso N. Peralta, Otila C. Sierra, Jovito A. delos Santos, William Tan, Felipe Sese, and Romeo E. Espera filed a Petition for Declaratory Relief and/or Injunction with prayer for Temporary Restraining Order (TRO)[4] questioning Resolution No. 2000-263,[5] Resolution No. 2000-354[6] and Ordinance No. 2000-059[7] issued by the respondents, Mayor Sulpicio S. Roco, Jr. and the members of the Sangguniang Panglungsod of Naga City. The said resolutions and ordinance read:

RESOLUTION NO. 2000-263

WHEREAS, received by the Sanggunian for appropriate action was the application of Mr. Robert L. Obiedo of ARE Square Realty Development Corporation for Preliminary Approval for Locational Clearance (PALC) for a First Class Memorial Park located at Barangay Balatas, City of Naga;

WHEREAS, the City Planning & Development Office evaluated and reviewed the documents submitted by Mr. Robert L. Obiedo for the purpose and found that the substantial requirements have been complied with;

x x x x x x x x

BE IT RESOLVED, as it is hereby resolved, to approve the application of Mr. Robert L. Obiedo of ARE Square Realty Development Corporation for Preliminary Approval for Locational Clearance (PALC) for a First Class Memorial Park located at Barangay Balatas, City of Naga.

RESOLUTION NO. 2000-354

WHEREAS, received by the Sangguniang Panglungsod for consideration was the letter dated September 4, 2000 of Mr. Robert L. Obiedo through his official representative Mrs. Alice C. Enojado of the ARE Square Realty Development Corporation applying for a Development Permit (DP) for their proposed Eternal Gardens Memorial Park with a total area of 60, 781 sq. m. located at Barangay Balatas, this city;

WHEREAS, in the Technical Evaluation Report dated October 2, 2000, the City Planning & Development Officer manifested that after evaluation and review of the submitted documents they found that the applicant has substantially complied with the requirements;

x x x x x x x x

BE IT RESOLVED, as it is hereby resolved, to approve the application for Development Permit (DP) of Mr. Robert L. Obiedo of the ARE Square Realty Development Corporation to develop the Eternal Gardens Memorial Park located at Barangay Balatas, this city, subject to the following conditions and compliance of all existing laws, ordinances, rules and regulations and further favorably endorsing the same to the Housing Land Use and Regulatory Board (HLURB) for appropriate action, to wit:

x x x x x x x x [Emphasis supplied]

ORDINANCE NO. 2000-059

Be it ordained by the Sangguniang Panglungsod of the City of Naga, that:

SECTION 1. - Ordinance No. 401, s. 1972, entitled: "An Ordinance Regulating the Establishment, Maintenance and Operation of Private Memorial Park-Type Cemetery or Burial Ground within the Jurisdiction of Naga City, and Providing Penalties for Violation Thereof"; specifically sub-paragraph (2) of paragraph (c) under Section 3 and sub-paragraph (a) under Section 5 thereof, on the minimum area of the proposed cemetery and Mayor's Permit and License Fees, respectively, is hereby amended, now to read follows:

`SECTION 3. - the operation and maintenance of the private memorial park-type cemetery established pursuant to this Ordinance shall be subject to the provisions of the cemetery law and/or other pertinent laws as well as rules and regulations promulgated or as may be promulgated by the Municipal Board, subject further to the following conditions:

x x x x x x x x

(c) No application for the establishment of a private cemetery shall be considered:

x x x x x x x x

(2) if the proposed private cemetery site is less than five (5) hectares;

x x x x x x x x.'

Respondents filed a Motion to Dismiss[8] for lack of jurisdiction. Finding the motion to be well-taken, the RTC dismissed the petition in an order dated April 17, 2001.[9] The RTC found that the prayer of petitioners was premature as the questioned resolutions and ordinance were merely promulgated to pave the way for the endorsement of the application of the private respondent to the HLURB. It recognized that the HLURB is the entity which will decide whether the application of the private respondent will be granted or not.

Apparently not in conformity with the order of dismissal, the petitioners appealed to the Court of Appeals premised on the following errors ---

"THE TRIAL COURT ERRED IN HOLDING THAT HLURB HAS JURISDICTION OVER THE CASE.

THE TRIAL COURT ERRED IN NOT GRANTING APPELLANTS' PRAYER FOR TRO AND OR WRIT

OF PRELIMINARY INJUNCTION." [10]

As earlier stated, the Court of Appeals affirmed in toto the April 17, 2001 Order of the RTC. [11] Pertinently, the Court of Appeals wrote:

"Indeed, the doctrine of administrative remedies requires that resort be first made to the administrative authorities in cases falling under their jurisdiction to allow them to carry out their functions and discharge their liabilities within the specialized areas of their competence. This is because the administrative agency concerned is in the best position to correct any previous error committed in its forum. Clearly, the filing of the petition for declaratory relief with the trial court had no basis, as there can be no issue ripe for judicial determination when the matter is within the primary jurisdiction of an administrative agency, the HLURB.

Consequently, inasmuch as the filing of the petition below was premature, appellant's application for temporary restraining order and/or writ of preliminary injunction, which is merely ancillary to the petition, has no leg to stand on."

Petitioners filed a Motion for Reconsideration but it was denied by the Court of Appeals in its August 9, 2006 Resolution. [12]

Hence, this Petition (filed by Honesto V. Ferrer and Romeo E. Espera only) [13] wherein the following arguments have been presented --

"THE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT THE PETITION FOR DECLARATORY RELIEF FILED WITH THE TRIAL COURT AS PREMATURE AND HAVING NO BASIS, ON THE PRETEXT THAT THE ISSUE RAISED THEREIN IS NOT YET RIPE FOR ADJUDICATION.

THE COURT OF APPEALS GRAVELY ERRED IN NOT APPLYING THE EXCEPTIONS TO THE GENERAL RULE ON THE EXHAUSTION OF ADMINISTRATIVE REMEDIES BEFORE RESORT TO COURTS.

THE COURT OF APPEALS GRAVELY ERRED IN NOT RECONSIDERING ITS DECISION." [14]

On June 23, 2008, after the submission of the separate comments by the private respondent PMC [15] and the public respondents, [16] and of the reply [17] by the petitioners, the petition was given due course and the parties were directed to submit their respective memoranda. [18]

After a thorough study of the respective positions of the parties on the issue at hand, the Court has reached the conclusion that the petition lacks merit.

Declaratory relief is defined as an action by any person interested in a deed, will, contract or other written instrument, executive order or resolution, to determine any question of construction or validity arising from the instrument, executive order or regulation, or statute, and for a declaration of his rights and duties thereunder. The only issue that may be raised in such a petition is the question of construction or validity of the provisions in an instrument or statute.

It is settled that the requisites of an action for declaratory relief are: 1] the subject matter of the controversy must be a deed, will, contract or other written instrument, statute, executive order or regulation, or ordinance; 2] the terms of said documents and the validity thereof are doubtful and require judicial construction; 3] there must have been no breach of the documents in question; 4] there must be an actual justiciable controversy or the "ripening seeds" of one between persons whose interests are adverse; 5] the issue must be ripe for judicial determination; and 6] adequate relief is not available through other means or other forms of action or proceeding. [19] [emphasis supplied]

In this case, the issue raised by petitioners is clearly not yet ripe for judicial determination. Nowhere in the assailed resolutions and ordinance does it show that the public respondents acted on private respondent's application with finality. What appears therefrom is that the application of private respondent for development permit has been endorsed to the Housing and Land Use Regulatory Board (HLURB) for appropriate action, the latter being the sole regulatory body for housing and land development.

Under the doctrine of primary administrative jurisdiction, courts cannot or will not determine a controversy where the issues for resolution demand the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact. In other words, if a case is such that its determination requires the expertise, specialized training and knowledge of an administrative body, relief must first be obtained in an administrative proceeding before resort to the courts is had even if the matter may well be within their proper jurisdiction.[20]

WHEREFORE, the April 21, 2006 Decision of the Court of Appeals and its August 9, 2006 Resolution are hereby AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Leonardo-De Castro,[*] and Abad, JJ., concur.

[*] Designated as additional member in lieu of Justice Diosdado M. Peralta per raffle dated June 22, 2009.

[1] Rollo, pp.35-43.

[2] Id. at 127-129.

[3] Id. at 45-46.

[4] Id. at 47-58.

[5] Resolution Approving the Application of Mr. Robert L. Obiedo of ARE Square Realty Development Corporation for Preliminary Approval for Locational Clearance (PALC) for a First Class Memorial Park located at Barangay Balagtas, City of Naga; Id. at 60-61.

[6] Resolution Approving the Application for Development Permit (DP) of Mr. Robert L. Obiedo of the ARE Square Realty Development Corporation to develop the Eternal Gardens Memorial Park located at Barangay Balagtas, this city, subject to certain conditions, and compliance of all existing Laws, Ordinances, Rules and Regulations and further favorably Endorsing the same to the Housing Land Use and Regulatory Board (HLURB) for appropriate action; Id. at 62-63.

[7] An Ordinance Amending Ordinance No. 401, S. 1972, entitled: "An Ordinance Regulating the Establishment, Maintenance and Operation of Private Memorial Park-Type Cemetery or Burial Ground within the jurisdiction of Naga City, and Providing Penalties for Violation thereof", specifically subparagraph (2) of paragraph (c) under Section 3 and subparagraph (A) under Section 5 thereof on the Minimum Area of the Proposed Cemetery and Mayor's Permit and License Fees, respectively; Id. at 64-65.

[8] Id. at 66-68.

[9] Id. at 127-129.

[10] Id. at 146.

[11] Id. at 35-43.

[12] Id. at 45-46.

[13] Id. at 9; Appellants Wenceslao D. San Andres, Jose A. Ocampo, Cresensana M. Vargas, Alfonso N. Peralta, Otilia C. Sierra, Jovito A. Delos Santos, William Tan and Felipe Sese are not included as petitioners due to their failure to signify their interest in pursuing the case with the Supreme Court or that their present whereabouts cannot be located.

[14] Id. at 24.

[15] Id. at 181-195.

[16] Id. at 215-221.

[17] Id. at 227-231.

[18] Id. at 233.

[19] *Almeda v. Bathala Marketing Industries, Inc.*, G.R. No. 150806, January 28, 2008, 542 SCRA 470.

[20] *Euro-Med Laboratories, Phil., Inc. v. The Province of Batangas*, G.R. No. 148106, July 17, 2006, 495 SCRA 301.

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