

BARRIO BALAGBAG OF PASAY CITY NEIGHBORHOOD ASSOCIATION, INC., FOR AND IN BEHALF OF THE RESIDENTS OF BARRIO BALAGBAG OF PASAY CITY, PETITIONER, VS. OFFICE OF THE PRESIDENT AND TH...

G.R. No. 230204. August 19, 2019

Ponente: REYES, J. JR., J.

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REYES, J. JR., J.:

This resolves the Petition for Review on Certiorari[1] assailing the November 21, 2016 Decision[2] and March 2, 2017 Resolution[3] of the Court of Appeals (CA), which, respectively affirmed the Decision of the Regional Trial Court (RTC) dismissing petitioner's Petition for Declaratory Relief and denied petitioner's Motion for Reconsideration, in CA-G.R. SP No. 146117.

Petitioner is a non-stock domestic corporation whose members are residents of an area of land situated in Barrio Balagbag, San Roque and Maricaban, Pasay City (subject area) which comprises part of the properties covered by Transfer Certificate of Title (TCT) No. 6735. The subject area was previously under the control and supervision of respondent Manila International Airport Authority (MIAA).

On January 18, 2002, then President Gloria Macapagal-Arroyo issued Proclamation (Proc.) No. 144, which segregated certain areas from the principal parcel of land covered under TCT No. 6735 and declared the same open to disposition to qualified applicants in accordance with Act No. 3038, in relation to Commonwealth Act (C.A.) No. 141 as amended.

Proc. No. 144 also provided that the Department of Environment and Natural Resources (DENR) shall conduct or supervise the actual boundary survey and subdivision survey of the subject area. Ecstatic over the said Proc. No. 144, petitioner's members proceeded to the DENR to make arrangements for the implementation of the said law.

On May 28, 2003, Proc. No. 144 was amended by Proc. No. 391 which declared that the Housing and Urban Development Coordinating Council (HUDCC)/National Housing Authority (NHA), in coordination with respondent MIAA shall be the primary agency responsible and authorized to administer and dispose the lots covered by Proc. No. 144 in favor of bonafide and qualified residents thereat for socialized housing purposes pursuant to Republic Act (R.A.) No. 7279 otherwise known as the Urban Development and Housing Act of 1992.

On March 6, 2006, Proc. No. 1027 was issued reducing the land previously declared available for disposition to qualified applicants under Proc. No. 144 by segregating certain portions of land as areas for retention by respondent MIAA.

On May 4, 2006, petitioner filed a Petition for Declaratory Relief against respondent Office of the President (OP) and MIAA, praying that Proc. No. 1027 be declared invalid arguing that (1) its members have been residing in the subject property for a period of time; (2) they are qualified to avail of the benefits of Proc. No. 144; (3) their chance to own the land that they are occupying was effectively abridged by the issuance of Proc. No. 1027; and

(4) that said Proc. No. 1027 rendered futile and useless all the time, money and effort spent by its members to implement Proc. No. 144.

Both respondents OP and MIAA filed their Answer to the Petition. Respondent OP alleged that it is the prerogative of the President to retain certain portions of public land for public use and that the present case is not predicated on any justiciable controversy. Respondent MIAA, on the other hand, alleged that petitioner has no locus standi to file the instant case.

On June 29, 2015, the RTC rendered a Decision^[4] dismissing the petition for lack of merit. Dissatisfied, petitioner filed an appeal with the CA. In the assailed Decision dated November 21, 2016, the CA affirmed the Decision of the RTC. Petitioner moved to reconsider but just the same, the motion was denied in another assailed Resolution dated March 2, 2017.

After the unfavorable judgment rendered against it, petitioner thereafter filed the instant Petition with this Court on the lone ground that -

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT PETITIONER'S MEMBERS ARE NOT QUALIFIED BENEFICIARIES TO THE GOVERNMENT'S SOCIALIZED HOUSING PROGRAM AND THAT NO INJURY WAS SUSTAINED OR WILL BE SUSTAINED BY THEM.^[5]

In its petition for declaratory relief, petitioner actually seeks to invalidate Proc. No. 1027 claiming that its members, being residents of the subject area had already acquired a right under Proc. No. 144 as in fact, they had already spent time, money and effort in availing the benefits of Proc. No. 144.

Section 1, Rule 63 of the Rules of Court reads:

SEC. 1. Who may file petition.

Any person interested under a deed, will, contract or other written instrument, whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

x x x x

In *Republic v. Roque*,^[6] the Court states:

x x x that the following are the requisites for an action for declaratory relief: first, the subject matter of the controversy must be a deed, will, contract or other written instrument, statute, executive order or regulation, or ordinance; second, the terms of said documents and the validity thereof are doubtful and require judicial construction; third, there must have been no breach of the documents in question; fourth, there must be an actual justiciable controversy or the "ripening seeds" of one between persons whose interests are adverse; fifth, the issue must be ripe for judicial determination; and sixth, adequate relief is not available through other means or other forms of action or proceeding.^[7]

The bone of contention of petitioner's petition with this Court is the fourth requisite. Petitioner essentially refutes the findings of the CA that the requisite of an actual justiciable controversy or the ripening seeds of one between persons whose interest are adverse - is wanting.

"There is a justiciable controversy where there is an actual controversy, or the ripening seeds of one exists between the parties, all of whom are sui juris and before the court, and that the declaration sought will help in ending the controversy."^[8] "Pertinently, a justiciable controversy refers to an existing case or controversy that is

appropriate or ripe for judicial determination, not one that is conjectural or merely anticipatory." [9] Indeed, a question becomes justiciable when it is translated into a claim of right which is actually contested.[10] A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it.[11]

"Corollary thereto, by 'ripening seeds' it is meant, not that sufficient accrued facts may be dispensed with, but that a dispute may be tried at its inception before it has accumulated the asperity, distemper, animosity, passion, and violence of a full blown battle that looms ahead." [12] "The concept describes a state of facts indicating imminent and inevitable litigation provided that the issue is not settled and stabilized by tranquilizing declaration." [13]

In the instant case, petitioner's action is prompted by the issuance of Proc. No. 1027 which amended Proc. No. 144 segregating portions of the lot covered by TCT No. 6735 and adding them as areas for retention by the MIAA. Proc. No. 1027 has in effect diminished, revoked and withdrawn the benefits that were earlier provided by Proc. No. 144 as amended by Proc. No. 391.

While Proc. No. 144 is silent as to its purpose, the vacuum is, however, filled up by the amendatory law, Proc. No. 391, when it categorically states that the main purpose of Proc. No. 144 is to remedy the long standing and difficult land tenure problem of the occupants of the subject area. The 5[th] Whereas Clause of Proc. No. 391 sets out clearly that:

WHEREAS, Presidential Proclamation No. 144 was issued on 18 January 2002 in order to resolve the long-standing land tenure problem of more than 6,000 families occupying certain parcels of land under the administration of MIAA situated in the City of Pasay. (Emphasis supplied)

The 7[th] Whereas Clause of the said law, in turn, provides:

WHEREAS, the said MIAA property has not been in use for more than ten (10) years and has been jointly identified by the National Housing Authority and the Local Government of Pasay City as potential socialized housing site pursuant to Section 8 of R.A. No. 7279 for informal settlers actually occupying the same as early as the eighties. (Emphasis supplied)

The foregoing evinces the intention of Proc. No. 144 that the intended beneficiaries are the occupants of the subject areas or the informal settlers actually occupying the same. Proc. No. 1027, on the other hand, specified the areas which are to be retained by the MIAA and which were effectively withdrawn from the disposition to qualified beneficiaries, thus:

1)

For Balagbag 1, a forty (40) meter-deep continuous and unbroken strip of land alongside the West Service road, South Luzon ExpressWay (SLEX) and Merville Road, to start from the edge of the existing road right-of-way.

2)

For the remaining portion of Balagbag 2, a ten (10) meter deep strip along the Merville Road, to start from the edge of the existing road right of way.

x x x x

As the area to be retained by MIAA was specified, it cannot be gainsaid that Proc. No. 1027 would have an adverse effect on petitioner's members who are presently and actually occupying the said specified area. They

need not show that they have completed the application and requirements of Proc. No. 144 as amended by Proc. No. 391 since to date, no implementing rules and procedures has yet been issued giving specific guidelines as to how said present occupants can avail of the benefits provided by the said laws. It is sufficient that they are members of the petitioner (a non-stock domestic corporation) who are present and actual occupants (informal settlers) of the subject area which they claim.

To be sure, the implementation of Proc. No. 1027 would mean, among others, the delimitation of the land that is supposed to be granted to them by Proc. No. 144 and the loss of their chances to be owners of the subject areas that they are occupying. At this point, their interests are no longer merely conjectural and anticipatory, but one that is real. Petitioner's members need not wait for them to be evicted from the lots they are presently and actually occupying. By then, there would be breach and violation of rights which is no longer a proper action for declaratory relief under Section 1, Rule 63 of the 1997 Rules of Court.[14]

Thus, petitioner's members have amply demonstrated a "personal and substantial interest in the case such that [they have] sustained, or will sustain, direct injury as a result of enforcement [and implementation of Proc. No. 1027]."[15] Since they will sustain direct injury by the implementation and enforcement of Proc No. 1027, hence, they have the right to challenge the validity of the said executive proclamation.[16] Under the given circumstances, petitioner has shown that its members' supposed rights to the land they are occupying will be subjected to an imminent or threatened violation that can only be remedied by the declaratory relief sought. Indeed, a stabilizing declaration is needed in order to end the controversy.

We now proceed to the merits of the petition for declaratory relief.

"The Regalian Doctrine dictates that all lands of the public domain belong to the State, that the State is the source of any asserted right to ownership of land and charged with the conservation of such patrimony."[17] Thus, all lands that have not been acquired from the government, either by purchase or by grant, belong to the State as part of the inalienable public domain.[18] Necessarily, it is up to the State to determine if lands of the public domain will be disposed of for private ownership.[19]

The function of administering and disposing of lands of the public domain in the manner authorized by law, is not entrusted to the courts but to executive officials.[20] The Public Land Act (C.A. No. 141) contains such an authority. Section 9 of said act provides:

SEC. 9. For the purpose of their administration and disposition, the lands of the public domain alienable or open to disposition shall be classified, according to the use or purpose to which such lands are destined, as follows:

- (a) Agricultural.
- (b) Residential, commercial, industrial, or for similar productive purposes.
- (c) Educational, charitable or other similar purposes.
- (d) Reservations for town sites and for public and quasi public uses.

The President, upon recommendation by the Secretary of Agriculture and Commerce, shall from time to time make the classifications provided for in this section, and may, at any time and in a similar manner, transfer lands from one class to another. (*Italics supplied*)

Section 8 of the same law (C.A. No. 141) provides as follows:

SEC. 8. x x x. However, the President may, for reasons of public interest, declare lands of the public domain open to disposition before the same have had their boundaries established or been surveyed, or may, for the

same reason, suspend their concession or disposition until they are again declared open to concession or disposition by proclamation duly published or by Act of the National Assembly. (*Italics supplied*)

Section 14, Chapter IV, Book III, Title 1 of the Administrative Code of 1987 in turn provides:

SEC 14. Power to Reserve Lands of the Public and Private Domain of the Government. — (1) The President shall have the power to reserve for settlement or public use, and for specific public purposes, any of the lands of the public domain, the use of which is not otherwise directed by law. The reserved land shall thereafter remain subject to the specific public purpose indicated until otherwise provided by law or proclamation[.]

There is no doubt that the affected government land remains to be a public land. Hence, its disposition is essentially an executive function. In this case, the President issued Proc. No. 144 as amended by Proc. No. 391 segregating certain areas of TCT No. 6735 under the administration of MIAA open for disposition to qualified applicants as potential socialized housing site. Subsequently, Proc. No. 1027 was issued retaining specified areas (previously segregated under Proc. No. 141 as amended) to MIAA, in effect withdrawing said area for disposition to qualified beneficiaries.

The clear import of Section 14, Chapter IV, Book III, Title 1 of the Administrative Code of 1987 in relation to Sections 8 and 9 of C.A. No. 141, authorized the President to do this. "It is not disputed that any disposable land belonging to the government may, by presidential action alone, be reserved for a specific public purpose or service." [21] If indeed the President has the power to reserve for specific public purpose land of public domain, then he/she has the concomitant power to reclassify the same, [22] release the land from reservation any time [23] or to suspend its disposition for reasons of public interest. [24]

In the case of *Republic v. Octubre*, [25] the government sought recovery of a parcel of land from defendants contending that it was reserved for the use of the Mountain National Agricultural School. Defendants alleged that the land in question no longer forms part of the reservation, the same having been released by Presidential Proclamation No. 209 dated October 20, 1955, for disposition under the provisions of the Public Land Law. The Court, in sustaining the validity of Pres. Proc. No. 209 held:

It may here be reiterated that pursuant to Section 64-(e) of the Revised Administrative Code, alienable lands of the public domain may be ordered reserved, by the President, for a specific public use or service. Then, under the provisions of the Public Land Law above-quoted, the President has authority to re-classify such lands from one class to another, e.g., from agricultural to reserved area and vice-versa. And, this reclassification may be effected any time and in a similar manner, that is, by presidential action. It cannot be rightly claimed, therefore, that the release from reservation of a certain portion of the area originally intended for the use of the Mountain National Agricultural School by a subsequent proclamation of the President, is not in accordance with law. [26]

In *Republic v. Court of Appeals*, [27] the Court affirmed the authority of the President to withdraw lands of public domain reserved for public use, even though this may defeat the imperfect right of a settler. The Court held:

Lands covered by reservation are not subject to entry, and no lawful settlement on them can be acquired. The claims of persons who have settled on, occupied, and improved a parcel of public land which is later included in a reservation are considered worthy of protection and are usually respected, but where the President, as authorized by law, issues a proclamation reserving certain lands, and warning all persons to depart therefrom, this terminates any rights previously acquired in such lands by a person who has settled thereon in order to obtain a preferential right of purchase. And patents for lands which have been previously granted, reserved from sale, or appropriated, are void. [28] (*Citations omitted*)

In *Apex Mining Co., Inc.*, [29] the Supreme Court affirmed the power of the Governor General to suspend from disposition (establish for forest reserve) certain areas of the public domain. The Court held:

From the above-quoted provision [of Section 8 of Act No. 2874, the former Public Land Act],[30] the Governor-General was specifically empowered not only to declare lands of public domain open to disposition but also to suspend their concession or disposition. Accordingly, withdrawal of a certain area to establish a forest reserve is, without question, within the power of the Governor-General. The then Governor-General Dwight F. Davis, in issuing Proclamation No. 369, withdrew from settlement or disposition the tracts of land described therein to establish a forest reserve. x x x .[31]

Verily, the President can, by his act alone, lift or release lands of public domain from any reservation and accordingly, reclassify and allot the same for reasons of public interest. In this case, the President's issuance of Proc. No. 1027, withdrawing specified areas of TCT No. 6735 for disposition to qualified occupants thereof, and retaining the same to be used by the MIAA is well-recognized by law. Suffice it to say, MIAA, being the country's principal airport for both international and domestic air transport, its properties, facilities and services are imbued with paramount public and even national interest.[32]

WHEREFORE, the petition is DENIED. Proclamation No. 1027 is declared VALID as it was issued in accordance with law.

SO ORDERED.

Carpio (Chairperson), Caguioa, Lazaro-Javier, and Zalameda, JJ., concur.

[1] Rollo, pp. 12-27.

[2] Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Fernanda Lampas Peralta and Nina G. Antonio-Valenzuela, concurring; id. at 32-39.

[3] Id . at 29-30.

[4] Id. at 311-316.

[5] Id. at 19.

[6] 718 Phil. 294 (2013).

[7] Id. at 304.

[8] *International Hardwood and Veneer Co. of the Philippines v. University of the Philippines*, 217 Phil. 636, 652 (1991).

[9] *Supra* note 6, at 305 .

[10] *Supra* note 8.

[11] *Guingona, Jr. v. Court of Appeals*, 354 Phil. 415, 427 (1998).

[12] *Supra* note 6, at 305.

[13] Id.

[[14]] *The Metropolitan Manila Development Authority v. Viron Transportation Co., Inc.*, 557 Phil. 121, 135-136 (2007).

[15] Id. at 136.

[16] Id.

- [17] Secretary of the Department of Environment and Natural Resources v. Mayor Yap, 589 Phil. 156, 176 (2008).
- [18] Id.
- [19] Id.
- [20] Cerdon v. Court of Appeals , 263 Phil. 83, 85 (1990).
- [21] Republic v. Octubre, 123 Phil. 698, 700 (1966).
- [22] Id.
- [23] Id.
- [24] Apex Mining Co., Inc. v. Hon. Garcia, 276 Phil. 301 (1991).
- [25] 123 Phil. 698 (1966).
- [26] Supra note 21 , at 701-702.
- [27] 165 Phil. 142 (1976).
- [28] Id. at 155-156.
- [29] Supra note 24.
- [30] Now Section 8 of C.A. No. 141 or the Public Land Act.
- [31] Supra note 24, at 306-307.
- [32] Manila International Airport Authority v. Airspan Corporation, 486 Phil. 1136, 1146 (2004).

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