

ANITA VILLA, PETITIONER, VS. MANUEL LAZARO, AS PRESIDENTIAL ASSISTANT FOR LEGAL AFFAIRS, OFFICE OF THE PRESIDENT, AND THE HUMAN SETTLEMENTS REGULATORY COM-MISSION, RESPONDENTS.

G.R. No. 69871. August 24, 1990

Ponente: NARVASA, J.

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NARVASA, J.:

On January 18, 1980, Anita Villa was granted a building permit to construct a funeral parlor at Santiago Boulevard in Gen. Santos City.[1] The permit was issued by the City Engineer after the application was "processed by Engineer Dominador Solana of the City Engineer's Office, and on the strength of the Certification of Manuel Sales, City Planning and Development Coordinator that the 'project was in consonance with the Land Use Plan of the City and within the full provision of the Zoning Ordinance.'"[2] With financing obtained from the Development Bank of the Philippines, Villa commenced construction of the building.

In October of that same year, as the funeral parlor was nearing completion, a suit for injunction was brought against Villa by Dr. Jesus Veneracion, the owner of St. Elizabeth Hospital, standing about 132.36 meters from the funeral parlor.[3] The complaint sought the perpetual enjoinder of the construction because allegedly violative of the Zoning Ordinance of General Santos City.[4] A status quo order was issued.

After appropriate proceedings and trial, judgment on the merits was rendered on November 17, 1981, dismissing Veneracion's complaint as well as the counterclaim pleaded by Villa. The Trial Court found that there was a falsified Zoning Ordinance, containing a provision governing funeral parlors, which had been submitted to and ratified by the Ministry of Human Settlements, but that ordinance had never been passed by the Sangguniang Panlungsod; and that the genuine Zoning Ordinance of General Santos City contained no prohibition whatever relative to such parlors' "distance from hospitals, whether public or private." [5] Villa then resumed construction of her building and completed it.[6]

Veneracion did not appeal from this adverse judgment which therefore became final. Instead, he brought the matter up with the Human Settlements Regulatory Commission. He lodged a complaint with that commission praying "that the funeral parlor be relocated because it was near the St. Elizabeth Hospital and Villa failed to secure the necessary locational clearance." [7] The complaint, as will at once be noted, is substantially the same as that filed by him with the Court of First Instance and dismissed after trial. Furthermore, neither he nor the Commission, as will hereafter be narrated, ever made known this second complaint to Villa until much, much later, after the respondent Commission had rendered several adverse rulings to her.[8]

Two months after the rendition of the judgment against Veneracion, or more precisely on January 22, 1982, Villa received a telegram dated January 21 from Commissioner Raymundo R. Dizon of the Human Settlements Regulatory Commission reading as follows:[9]

"THE HUMAN SETTLEMENT REGULATORY COMMISSION REQUEST TRANSMITTAL OF PROOF OF LOCATIONAL CLEARANCE GRANTED BY THIS OFFICE IMMEDIATELY UPON RECEIPT OF THIS ** NOT LATER THAN 21ST JANUARY 1982 REGARDING YOUR OWN GOING CONSTRUCTION OF A FUNERAL PARLOR AT SANTIAGO STREET CORNER NATIONAL HIGHWAY GENERAL SANTOS CITY AN OFFICIAL COMMUNICATION TO THE EFFECT FOLLOWS."

On the same day, January 22, 1982, Villa sent Dizon a reply telegram reading: "LOCATIONAL CLEARANCE BASED ON CERTIFICATION OF CITY PLANNING AND DEVELOPMENT COORDINATOR AND HUMAN SETTLEMENT OFFICER, COPIES MAILED..."[10] This she did on January 27, 1982; under Registry Receipt No. 1227 (Gen. Santos City Post Office),[11] Villa sent to Dizon -

1) the certification dated October 24, 1980 of Josefina E. Alaba (Human Settlements Officer, Gen. Santos City) to the following effect:[12]

" ** that per scrutiny of the documents presented by Mrs. Anita Villa on her application for a Funeral Parlor and inspection of lot no. 4997 along Santiago Boulevard where the building is to be constructed, the undersigned guarantees that the application passed the criteria of this office for this purpose;"

2) and the certification of Manuel O. Sales, City Planning and Development Coordinator, dated December 27, 1979,[13] that:

" ** the proposed project (funeral Chapel) of Anita G. Villa, located at Lot No. 4997 along Santiago Boulevard is in consonance with the Land Use Plan of the City and within the full provision of the Zoning Ordinance.

On February 8, 1982 Villa received what was evidently the "official communication" referred to in Commissioner Dizon's telegram of January 21, 1982, supra, an "Order to Present Proof of Locational Clearance" dated January 20, 1982. Knowing this and "considering also that she ** (had) already sent the (required) locational clearance on January 27, 1982," Villa made no response.[14]

No doubt with no little discomfiture, Villa received on June 2, 1982 a "Show Cause" Order dated April 28, 1982, signed by one Ernesto L. Mendiola in behalf of the Commission, requiring her to show cause why a fine should not be imposed on her or a cease--and-desist order issued against her for her failure to show proof of locational clearance.[15] The order made no reference whatever to the documents she had already sent by registered mail as early as January 27, 1982. The following day Villa sent a telegram to Commissioner Dizon reading as follows:[16]

"LOCATIONAL CLEARANCE WAS MAILED THRU REGISTERED MAIL REGISTRY RECEIPT NUMBER 1227 DATED JANUARY 27, 1982, SENDING AGAIN THRU REGISTERED MAIL REGISTRY RECEIPT NO. 6899 JUNE 3, 1982."

On the same day, she also sent to Commissioner Dizon by registered mail (Reg. Receipt No. 6899), as indicated in her telegram, the same certifications earlier sent by her also by registered mail (Reg. Receipt No. 1227), supra.

If she thought the affair had thus been satisfactorily ended, she was sadly in error, of which she was very shortly made aware. On July 27, 1982, she received an Order of Commissioner Dizon dated June 29, 1982 imposing on her a fine of P10,000.00 and requiring her to cease operations until further orders from his office.[17] The order made no mention of the documents she had transmitted by registered mail on January 27, 1982 and June 3, 1982, or to her telegrams on the matter. Villa forthwith went to see the Deputized Zoning Administrator of General Santos City, Isidro M. Olmedo. The latter issued to her a "CERTIFICATE OF ZONING COMPLIANCE" No. 0087, dated July 28, 1982, inter alia attesting that the land on which Villa's "proposed commercial building" was

located in a vicinity in which the "dominant land uses" were "commercial/institutional/residential," and the project conformed "WITH THE LAND USE PLAN OF THE CITY." [18] This certificate Villa sent on the same day to Commissioner Dizon by registered mail (Reg. Receipt No. 1365 [Gen. Santos City P.O.]). [19] It is noteworthy that this Certificate No. 0087 is entirely consistent with the earlier certification dated November 27, 1979 of City Planning & Development Coordinator Sales that Villa's funeral chapel was "in consonance with the Land Use Plan of the City and within the full provision of the Zoning Ordinance," supra, [20] and that of Human Settlements Officer Alaba dated October 24, 1980, supra, [21] that Villa's "application for a Funeral Parlor * * passed the criteria of this office for this purpose." Villa could perhaps be understandably considered justified in believing, at this time, that the matter had finally been laid to rest.

One can then only imagine her consternation and shock when she was served on November 16, 1982 with a writ of execution signed by Commissioner Dizon under date of October 19, 1982 in implementation of his Order of June 29, 1982, above mentioned, imposing a fine of P10,000.00 on her. Again, this Order, like the others issuing from respondent Commission, made no advertence whatever to the documents Villa had already sent to respondent Commission by registered mail on January 27, June 29, and July 28, 1982, or her telegrams. Be this as it may, she lost no time in moving for reconsideration, by letter dated November 22, 1982 to which she attached copies of the documents she had earlier sent to Commissioner Dizon, viz.: (1) her telegram of January 22, 1982, [22] (2) the certification of the City Planning & Development Coordinator, [23] (3) the certification of the Human Settlements Officer, [24] (4) the telegram dated June 3, 1982, [25] and (5) the Certificate of Zoning Compliance dated July 28, 1982. [26] In addition, Villa executed a special power of attorney on December 10, 1982 authorizing Anastacio Basas to "deliver to the Human Settlements Regulatory Commission ** all my papers or documents required by the said Commission as requisites for the issuance to me and/or the Funeraria Villa ** (of) the locational clearance for the construction of my funeral parlor along Santiago boulevard, General Santos City **," [27] pursuant to which on December 15, 1982, said Basas delivered to the Commission (Enforcement Office), thru one Betty Jimenez, [28] copies of Villa's (1) building plan, (2) building permit, [29] (3) occupancy permit, [30] and (4) "the decision of the Court case involving the funeral parlor." [31]

By Order dated January 21, 1983, Commissioner Dizon denied the reconsideration prayed for by Villa in her letter of November 22, 1982, opining that the plea for reconsideration had been presented out of time, [32] and the order of June 29, 1982 had become final and executory. [33]

Villa then filed an appeal with "the Commission Proper, which denied it in an order dated September 7, 1983, also on account of the finality of the order of the Commissioner for Enforcement. Her subsequent motion for reconsideration ** (was also) denied in the order of June 7, 1984 **." [34]

Villa then sought to take an appeal to the Office of the President. The matter was acted on by the Presidential Assistant for Legal Affairs, respondent Manuel M. Lazaro. In a Resolution dated September 21, 1984, respondent Lazaro denied the "appeal and (Villa's) motion for extension of time to submit an appeal memorandum." [35] It is noteworthy that Lazaro's resolution, like the orders of Commissioner Dizon and respondent Commission, contains no reference whatsoever to the telegrams and documents sent by Villa to the latter on various occasions evidencing her prompt responses to the orders of Dizon and the Commission, and her substantial compliance with the general requirement for her to present the requisite clearances or documents of authority for the erection of her funeral parlor. The very skimpy narration of facts set out in the resolution limits itself merely to a citation of the orders of Commissioner Dizon and the Commission; and on that basis, the resolution simplistically concludes that "no appeal was seasonably taken by Mrs. Anita Villa from the order of June 29, 1982, of the HSRC ** (and) accordingly, said order became final for which reason a writ of execution was issued ** (which) finality was confirmed in the subsequent orders of HSRC, dated January 21, 1983, and September 7, 1983."

Villa filed a motion for reconsideration dated October 19, 1984, this time through counsel, contending that the resolution of September 21, 1984 was "not in conformity with the law and the evidence" and deprived her of due process of law.[36] But this, too, was denied (with finality) by respondent Lazaro, in a Resolution dated December 14, 1984 which again omitted to the several attempts of Villa to comply with the order of Commissioner Dizon to present the requisite documents of authority anent her funeral parlor and adverted merely to the orders emanating from Dizon and the respondent Commission.[37]

These facts present a picture of official incompetence or gross negligence and abdication of duty, if not of active bias and partiality, that is most reprehensible. The result has been to subvert and put to naught the judgment rendered in a suit regularly tried and decided by a court of justice, to deprive one party of rights confirmed and secured thereby and to accord her adversary, in a different forum, the relief he had sought and been denied in said case.

There is no question that Dr. Jesus Veneracion had resorted to the proscribed practice of forum-shopping when, following adverse judgment of the Court of First Instance in his suit to enjoin the construction of Villa's funeral parlor, he had, instead of appealing that judgment, lodged a complaint with the respondent Commission on substantially the same ground litigated in the action. Also undisputed is that while the respondent Commission took cognizance of the complaint and by telegram required Villa to submit a locational clearance, said respondent did not then or at any time before issuance of the order and writ of execution complained of bother to put her on notice, formally or otherwise, of Veneracion's complaint. It was therefore wholly natural for Villa to assume, as it is apparent she did, that no formal adversarial inquiry was underway and that the telegram was what it purported to be on its face: a routinary request, issued *motu proprio*, to submit proof of compliance with locational requirements. And such assumption was doubtless fortified by petitioner's knowledge that she already had in her favor a judgment on the subject against which her opponent had taken no recourse by appeal or otherwise.

Neither is there any serious dispute about what transpired thereafter, as already recounted and, in particular, about the fact that in response to that first and the subsequent demands sent by Commissioner Dizon, Villa not once but thrice furnished the Commission by registered mail with copies, variously, of official documents certifying to her compliance with the pertinent locational, zoning and land use requirements and plans. None of these documents appears to have made any impression on Commissioner Dizon, whose show-cause order of April 28, 1982 and order of June 29, 1982 imposing a P10,000.00 fine on petitioner made no mention of them whatsoever. Not even Villa's submission of said documents a fourth time to support her motion for reconsideration of a writ of execution could move Commissioner Dizon to stop acting as if said documents did not exist at all. True, only copies had been submitted, but ordinary prudence and fairness dictated at least some inquiry into their authenticity, and this would not have posed any great difficulty considering their purportedly official origins.

The mischief done by Commissioner Dizon's baffling failure (or obdurate refusal) even to acknowledge the existence of the documents furnished by petitioner was perpetuated by the "Commission proper" and respondent Lazaro (Presidential Assistant on Legal Affairs), who threw out petitioner's appeals with no reference whatsoever thereto and thereby kept in limbo evidence that would have been decisive.

The Solicitor General's brief Comment of September 3, 1985[38] neither admits nor denies Villa's claim of having submitted the required documents; it avoids any reference thereto and deals mainly with the question of the timeliness of her appeal to the respondent Commission and the propriety of the present petition. From such silence and upon what the record otherwise clearly shows, the Court remains in no doubt of the verity of said petitioner's claim that she had more than once submitted those requisite documents.

There was absolutely no excuse for initiating what is held out as an administrative proceedings against Villa

without informing her of the complaint which initiated the case; for conducting that inquiry in the most informal manner by means only of communications requiring submission of certain documents, which left the impression that compliance was all that was expected of her and with which directives she promptly and religiously complied; assuming that one of the documents thus successively submitted had been received, but given the fact that on at least two occasions, their transmission had been preceded by telegrams announcing that they would follow by mail, for failing to call Villa's attention to their non-receipt or to make any other attempt to trace their whereabouts; for ruling against Villa on the spurious premise that she had failed to submit the documents required; and for maintaining to the very end that pretense of lack of compliance even after being presented with a fourth set of documents and the decision in the court case upholding her right to operate her funeral parlor in its questioned location.

Whether born of ineptitude, negligence, bias or malice, such lapses are indefensible. No excuse can be advanced for avoiding all mention or consideration of certifications issued by respondent Commission's own officials in General Santos City, which included the very relevant one executed by Human Settlements Officer Josefina E. Alaba that petitioner's application for a funeral parlor at the questioned location had " * passed the criteria of this office for this purpose." [39] It was thus not even necessary for petitioner to bring that document to the notice of the Commission which, together with Commissioner Dizon, was chargeable with knowledge of its own workings and of all acts done in the performance of duty by its officials and employees. Petitioner is plainly the victim of either gross ignorance or negligence or abuse of power, or a combination of both.

All of the foregoing translate to a denial of due process against which the defense of failure to take timely appeal will not avail. Well-esconced in our jurisprudence is the rule:

" * that administrative proceedings are not exempt from the operation of certain basic and fundamental procedural principles, such as the due process requirements in investigations and trials. And this administrative due process is recognized to include (a) the right to notice, be it actual or constructive, of the institution of the proceedings that may affect a person's legal right; (b) reasonable opportunity to appear and defend his rights, introduce witnesses and relevant evidence in his favor, (c) a tribunal so constituted as to give him reasonable assurance of honesty and impartiality, and one of competent jurisdiction; and (d) a finding or decision by that tribunal supported by substantial evidence presented at the hearing, or at least contained in the records or disclosed to the parties affected." [40]

and, it being clear that some, at least, of those essential elements did not obtain or were not present in the proceedings complained of, any judgment rendered, or order issued, therein was null and void, could never become final, and could be attacked in any appropriate proceeding.

The Court finds no merit in the proposition that relief is foreclosed to Villa because her motion for reconsideration of November 22, 1982 was filed out of time. The very informal character of the so-called administrative proceedings, an informality for which Commissioner Dizon himself was responsible and which he never sought to rectify, militates against imposing strict observance of the limiting periods applicable to proceedings otherwise properly initiated and regularly conducted. Indeed, considering the rather "off-the-cuff" manner in which the inquiry was carried out, it is not even certain that said petitioner is chargeable with tardiness in connection with any incident thereof. What the record shows is that she invariably responded promptly, at times within a day or two of receiving them, to orders of communications sent to her. At any rate, the Court will not permit the result of an administrative proceeding riddled with the serious defects already pointed out to negate an earlier judgment on the merits on the same matter regularly rendered by competent court.

WHEREFORE, the petition is GRANTED. The proceedings complained of are ANNULLED and all orders, writs and resolutions issued in the course thereof, beginning with the show-cause order of June 2, 1982 up to and

including the challenged Resolutions of September 21, 1984 and December 14, 1984 of respondent Presidential Assistant Manuel Lazaro are VACATED and SET ASIDE, for having been taken and/or issued in violation of petitioner's right to due process, without pronouncement as to costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Named, as might be expected, "Funeraria Villa"

[2] Rollo, p. 34 (Decision dated Nov. 17, 1981 of Hon. Pedro Samson C. Animas, Judge of the then Court of First Instance of South Cotabato (Branch One) in Special Civil Case No. 96 entitled, "Jesus Veneracion vs. Anita Villa"

[3] Id., p. 36

[4] Id., pp. 34, 36

[5] Id., p. 40

[6] Id., p. 13

[7] Id., p. 27 (p. 1 of Resolution of respondent Lazaro dated Sept. 21, 1984)

[8] Id., p. 32 (p. 2, Motion for Reconsideration dated Oct. 19, 1984)

[9] Id., p. 14

[10] Id., p. 114

[11] Id., p. 113-A

[12] Id., p. 114 (Annex H)

[13] Id., p. 115 (Annex I)

[14] Id., pp. 14-15

[15] Id., pp. 15, 179

[16] Id., pp. 15, 116, 117

[17] Id., p. 15

[18] Id., pp. 15-16, 118

[19] Id., p. 119 (Annex K-3)

[20] Footnote 10

[21] Footnote 11

[22] Footnotes, 10, 20

[23] Footnote 13

[24] Footnote 12

[25] Footnote 16

[26] Footnote 17

[27] Rollo, p. 143 (Annex U)

[28] Id., pp. 171, 145: Reverse side (Annex W-I) of Routing Slip (Annex W)

[29] Id., p. 121 (Annex M)

[30] Id., p. 126 (Annex O)

[31] Id., p. 127 (Annex Q)

[32] Id., p. 169

[33] Id., p. 28

[34] Id., p. 28

[35] Id., pp. 27-28

[36] Id., pp. 31-33

[37] Id., pp. 29-30

[38] Rollo, pp. 72-80

[39] See supra, Footnote 10

[40] Air Manila, Inc. vs. Balatbat, 38 SCRA 489, 492 citing Asprec vs. Itchon, 16 SCRA 921, Garcia vs. Executive Secretary, 6 SCRA 1 and Ang Tibay vs. CIR, 69 Phil. 635

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