

DIRECTOR OF LANDS AND SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES (FORMERLY MINISTRY OF NATURAL RESOURCES), PETITIONERS, VS. THE COURT OF APPEALS (THIRD DIVISION) AND B.A. GO...

G.R. No. 79684. February 19, 1991

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This is a petition for review on certiorari assailing the decision dated April 3, 1987 of the respondent court,[1] as well as its resolution dated August 27, 1987 denying the petitioners' motion for reconsideration, the dispositive portion of which decision reads as follows:

WHEREFORE, the instant Petition is hereby GRANTED. The restraining order promulgated by this Court on November 3, 1986 restraining the public respondents from issuing any award to the private respondents as the winning bidders in that public bidding held on October 24, 1986 or in any manner implementing by the public and private respondents the results thereof, is hereby converted into a preliminary injunction and upon the filing by the petitioner and approval by this Court of an injunction bond the amount of P30,000.00, the preliminary injunction shall remain permanent until the Minister of Natural Resources shall have acted, as he is hereby directed to act, on the appeals of the petitioner from the Orders of respondent Director of Lands dated June 20, 1977 (Numancia project) and April 14, 1983 (Valderama project). With costs against private respondents.

SO ORDERED.

The facts are undisputed.

The petitioners Director of Lands and the Secretary of Environment and Natural Resources entered into a contract on June 30, 1973 with the private respondent B.A. Gonzalez Surveying Company for which the latter was bound to execute a public land subdivision mapping (Plsm) of the alienable and disposable lands in the Municipality of Valderama, Antique, Blk. 1-III, L.C. No. 819, for and in consideration of the amount of P183,818.00.[2]

On January 28, 1974, the private respondent was likewise contracted by the petitioners to do the photo-cadastral mapping (Pcadm) of Project PCADM-493-D in Numancia, Aklan, for the sum of P130,000.00.[3] However, despite written demands from the Bureau of Lands to the private respondent to commence the Numancia, Aklan Pcadm project, the latter failed to do so; consequently, in an order dated February 7, 1977, the former cancelled the contract with regard to the said project and declared the performance bond No. BCICI-3323 as forfeited.[4]

On a motion for reconsideration filed by the private respondent, the Director of Lands reinstated the said contract on June 20, 1977 without however granting the company's request for a price adjustment, which denial the private respondent seasonably appealed to the Secretary of Environment and Natural Resources. This appeal is pending.

On April 14, 1983, the Director of Lands likewise scrapped the Valderama Plsm contract because of the

non-completion of the project despite the grant of repeated extensions totalling 1,200 days.[5]

Similarly, the private respondent appealed the cancellation of the said contract to the Secretary of Environment and Natural Resources, where the appeal also still remains pending.

Meanwhile, without both appeals being resolved, the Director of Lands conducted a public bidding for the cadastral survey of several municipalities including the Municipality of Numancia, Aklan and the Municipality of Valderama, Antique. In the said bidding, Armando Villamayor and Cristina Matuod were declared as the successful bidders for the Numancia and Valderama projects, respectively.

Thereupon, the private respondent filed a petition for prohibition and mandamus with a prayer for a temporary restraining order with the Court of Appeals docketed as CA-G.R. No. 10421, alleging that the Director of Lands acted without or in excess of jurisdiction in awarding the said cadastral survey projects to other persons while the appeals of the private respondent remain pending.

As adverted to at the outset, the respondent Court of Appeals in its decision dated April 3, 1987 granted the said petition and denied in a resolution dated August 27, 1987 the petitioners' motion for reconsideration.

Hence, this petition.

The petitioners assign the following errors[6] allegedly committed by the Court of Appeals:

I

RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT PUBLIC LAND SUBDIVISION MAPPING (PLSM) AND PHOTO-CADASTRAL MAPPING (PCADM), ON ONE HAND, AND A REGULAR CADASTRAL SURVEY, ON THE OTHER, "HAVE THE SAME PURPOSE OF REGISTERING TITLES AND AS SUCH, ONE MAY SUBSTITUTE FOR THE OTHER". (Decision, p. 4, Annex "C").

II

RESPONDENT COURT OF APPEALS ERRED IN DISREGARDING THE OPINION OF THE DIRECTOR OF LANDS ON A MATTER WITHIN HIS EXCLUSIVE COMPETENCE AND TECHNICAL EXPERTISE AS WELL AS NLRC RULES AND REGULATIONS, TO THE EFFECT THAT GRAPHICAL TECHNICAL DESCRIPTIONS, AS THOSE PRODUCED FROM A PLSM OR PCADM, CANNOT BE THE BASIS OF LAND REGISTRATION.

III

RESPONDENT COURT OF APPEALS ERRED IN ENJOINING THE AWARD OF THE CADASTRAL SURVEY OF THE MUNICIPALITIES OF VALDERAMA AND NUMANCIA TO THE WINNING BIDDERS WHICH IS A SURVEY ENTIRELY DIFFERENT FROM THE MAPPING SURVEY CONTRACTS OF THE COMPANY WITH THE GOVERNMENT.

IV

RESPONDENT COURT OF APPEALS ERRED IN HOLDING, IN EFFECT, THAT THE COMPANY'S MAPPING SURVEY CONTRACTS, WHICH HAD ALREADY BEEN CANCELLED, CONSTITUTE A BAR TO THE CADASTRAL SURVEY OF THE MUNICIPALITIES OF VALDERAMA AND NUMANCIA, THEREBY PREEMPTING THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES IN DETERMINING THE MERITS OF THE COMPANY'S APPEALS.

The petition is impressed with merit.

The four errors assigned by the Solicitor General appearing for the public officials-petitioners may be integrated into the sole issue as to whether or not the respondent court erred in holding that the Director of Lands acted without or in excess of his jurisdiction or with grave abuse of discretion in allowing the award of the cadastral survey projects to new contractors involving lands subject to prior mapping projects with another contractor (the private respondent) whose contracts are involved in a pending appeal to the Secretary of Environment and Natural Resources.

The respondent court, in sustaining the private respondent, asseverated that while cadastral survey on one hand, and the Pcadm and the Plsm projects on the other, are classified differently, i.e., the former being numerical cadastre and the latter as graphical, both projects nonetheless "have the same purpose of registering titles and as such, one may substitute for the other. Accordingly, allowing the award of the cadastral survey projects to other contractors will render unnecessary the pending mapping survey contracts of the government with the petitioner (private respondent herein), as if the same were already awarded to others." [7]

We do not think so. Given the premises that both projects, mapping and cadastral survey, have the same purpose or registering titles and that one may substitute for the other, do not justify the sweeping conclusion that the undertaking of one would render the other unnecessary.

The question on the necessity of either or both projects must be better addressed to the sound discretion of the proper administrative officials who admittedly have the competence and technical expertise on the matters. In the case at bar, the petitioner Director of Lands is "the official vested with direct and executive control of the disposition of the lands of the public domain." [8] Specifically, Section 4 of Commonwealth Act No. 141 provides that "xxx [T]he Director of Lands shall have direct executive control of the survey, classification, lease, sale, or any form of concession or disposition and management of the public domain, and his decisions as to questions of fact shall be conclusive when approved by the Secretary of Agriculture and Commerce (now the Secretary of Environment and Natural Resources)."

We likewise take cognizance of the wealth of jurisprudence on this doctrine of primary administrative jurisdiction and exhaustion of administrative remedies. The Court has consistently held that "acts of an administrative agency must not casually be overturned by a court, and a court should as a rule not substitute its judgment for that of the administrative agency acting within the parameters of its own competence," [9] unless "there be a clear showing of arbitrary action or palpable and serious error." [10] In similar vein, we reiterated recently the rule that the findings of fact of quasi-judicial agencies which have acquired expertise because their jurisdiction is confined to specific matters, in the present case cadastral surveys and mappings and land registration, are accorded not only respect but more often than not even finality. [11]

On the other hand, the private respondent claims that his case is an exception and invokes *Leongson vs. Court of Appeals* [12] which states that "once the actuation of an administrative official or administrative board or agency is tainted by a failure to abide by the command of the law, then, it is incumbent on the courts of justice to set matters right, with the Tribunal having the last say on the matter."

But ironically, it is precisely the "command of the law" that the Director of Lands sought to implement when the respondent court enjoined the former from pushing through with the award of the cadastral survey projects. We have quoted earlier the provisions of Section 4 of Commonwealth Act No. 141 [The Public Land Law], which explicitly empower and command the Director of Lands to have the direct executive control of the survey and classification, inter alia, of lands of the public domain. Moreover, in the same law, in Section 6 thereof "[T]he Director of Lands, with the approval of the Secretary of Agriculture and Commerce (now Secretary of Environment and Natural Resources) shall prepare and issue such forms, instructions, rules, and regulations

consistent with this Act, as may be necessary and proper to carry into effect the provisions thereof and for the conduct of proceedings arising under such provisions."

Aside from these "command(s) of the law" giving to the Director of Lands the "direct executive control" of the subject matter of the controversy in this case, the Land Registration Commission (LRC) requires in its Circulars[13] Nos. 371 (1980), 394 (1981), and 32 (1983) the full and complete technical description of lands prior to their registration. The said requirement can only be accomplished through the conduct of a regular cadastral survey which, as aforesaid, is under the direct executive control of the Director of Lands.

Moreover, the respondent court admits that mapping projects and cadastral surveys are classified differently. That is correct because indeed there exists real distinctions between these mapping and cadastral survey projects. Due to these distinctions, the mapping or graphical survey would apply more to pre-cadastral operations and the numerical one to the regular cadastral survey proper. These distinctions may be more easily appreciated by a scrutiny of the respective program of activities in each of these three technical endeavors.

I. Photo-Cadastral Mapping Project (Pcadm)

1.

sub-lot identification and delineation of tenanted private agricultural lands primarily devoted to rice and/or corn (photo-sketching for land reform);

2.

project controls of secondary precision only;

3.

establishment of photo control points for every photograph by tertiary traverse from control stations;

4.

monumenting of lots claimed as private or public lands and sketching on photo-maps;

5.

numerical survey of the residential, commercial and industrial lots in the poblacion and barrios, preparation of cadastral maps from sketches on maps, and mapping by ground method of covered areas;

6.

establishment of political boundary monuments of secondary survey controls;

7.

preparation of the complete mapping returns.

I-A . Public Land Subdivision Mapping Project (Plsm)

1.

sub-lot identification and delineation and tenanted private agricultural lands primarily devoted to rice and/or corn (sketching for land reform) and sketching of lots claimed as private or public lands;

2.

project controls of tertiary precision only;

3.

Monumenting of corners of lots claimed as private or public lands;

4.

Numerical survey of the residential lots in the poblacion and barrios;

5.

Establishment of political boundary monuments by tertiary survey controls;

6.

The preparation of the complete mapping returns.

II. Scope of Work - Cadastral Survey Project

1.

Sketching by transit and stadia or any acceptable method of lots claimed as private or public lands;

2.

Project controls shall be of primary precision;

3.

Monumenting of corners of lots claimed as private, government or public land;

4.

Numerical survey of all lots including parcels covered by Operation Land Transfer (OLT) whether or not previously subjected to PMS;

5.

Survey of foreshore areas as a strip indicating on the cadastral map areas covered by existing lease applications;

6.

Establishment of political boundary monuments and survey thereof by secondary control;

7.

Accomplishment of land use maps, questionnaire for land use inventory and land use summary report;

8.

Preparation and submittal of the complete survey returns of the cases submitted for verification and approval;

9.

Preparation of overlays on drafting film of CMs containing OLT areas and list of claimants thereof.

An analysis of above list depicts that the greater bulk of the activities in Plsm and Pcadm projects is sketching; whereas, in a regular cadastral survey, the entire area of the municipality is subjected to a numerical survey. While Plsm and Pcadm projects lead to the preparation of mere graphical sketches or maps, a cadastral survey results in the preparation of complete survey returns and technical descriptions of individual lots necessary for registration purposes.[14]

But even granting arguendo that the Plsm and Pcadm projects on the one hand, and the cadastral survey on the other, are similar activities, there is no legal bar for the private respondent, assuming that the Secretary of Environment and Natural Resources resolves the appeals in its favor, to finish the mapping projects and then demand the corresponding remuneration from the Director of Lands. In the same way, compensation would be due to the winning bidders in question once their own cadastral survey projects would have been accomplished. In case the Director of Lands fails to pay upon fulfillment of the said contracts, then any contractor may validly resort to judicial action to enforce its legitimate demands.

Meanwhile, the proper remedy of the private respondent would be to pursue promptly its appeals with the Secretary of Environment and Natural Resources as regards its cancelled and questioned contracts rather than seek judicial imprimatur to its improper interference with administrative prerogatives and thus provide a

convenient cover-up for its breaches of its own contractual obligations.

Notwithstanding the private respondent's dubious attitude in not participating in the bidding in question, he could have also appealed the conduct of the said bidding to the Secretary of Environment and Natural Resources as was the case in his Plsm and Pcadm contracts with the government and asserted therein that the same would be prejudicial to his interests.

In sum, the respondent court committed a reversible error in stopping the implementation of the results of the bidding for the cadastral survey projects conducted by the Director of Lands. The said injunction issued by the respondent court constitutes a violation of the doctrine of primary administrative jurisdiction and defeats the very purpose thereof, which is, "not only to give the administrative agency the opportunity to decide the controversy by itself correctly, but also to prevent unnecessary and premature resort to the courts." [15]

WHEREFORE, the petition is GRANTED and the injunction issued is hereby lifted; the Decision of the Court of Appeals dated April 3, 1987, as well as its Resolution dated August 27, 1987, is hereby ANNULLED and SET ASIDE. With costs against the private respondent.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Kalalo, Felipe, J., ponente; Nocon, Rodolfo, and Tensuan, Ricardo, JJ., concurring.

[2] Annex "A", Original Record, 10.

[3] Annex "D", Original Record, 15.

[4] Id., 16.

[5] Rollo, Annex "A", 53.

[6] Rollo, 17.

[7] Rollo, 74.

[8] Garcia v. Aportadera, G.R. No. L-34122, August 29, 1988, 164 SCRA 705, 710.

[9] Reyes v. Cañeba, G.R. No. 82218, March 17, 1988.

[10] Beautifont Inc., et al. v. Court of Appeals, et al., G.R. No. 50141, January 29, 1988, 157 SCRA 481, citing Pangasinan Transportation vs. Public Utility Commission, 70 Phil. 221 and Heacock vs. NLU, 95 Phil. 553.

[11] Alejandro v. The Honorable Court of Appeals, et. al., G.R. Nos. 84572-73, November 27, 1990.

[12] G.R. No. L-32255, January 30, 1973, 49 SCRA 212.

[13] Rollo, 86-88.

[14] Id., 210-212, "The Office Memorandum of the Committee on Award and Enforcement of Survey Contracts, Bureau of Lands, dated April 20, 1987 (Annex "F", Id.)."

[15] Supra, 12.

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