



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 29, 2020** which reads as follows:*

“G.R. No. 227263 – (Ann Marie L. Manubay-Dalugdug, James John L. Manubay, Ann Margareth L. Manubay, James Francis L. Manubay, Archdiocese of Caceres and Manubay Agro Industrial Development Corporation, Inc., represented by John James L. Manubay versus Office of the President.)

Before us is a Petition for Review on *Certiorari*,¹ assailing the Decision² dated April 27, 2016 and Resolution³ dated August 24, 2016 of the Court of Appeals (CA) filed by Ann Marie L. Manubay-Dalugdug, James John L. Manubay, Ann Margareth L. Manubay, James Francis L. Manubay, Archdiocese of Caceres, and Manubay Agro Industrial Development Corporation, Inc., represented by John James L. Manubay (petitioners) against the Office of the President.

The subject of this controversy is a landholding comprising of 124.3210 hectares (subject property) covered by Transfer Certificates of Title Nos. 12691, 12357, 12358, 12359, and 12360 located at barangay Cadlan, Pili, Camarines Sur and owned by petitioners.⁴

On November 15, 1994, the Municipal Agrarian Reform Office (MARO) of Pili, Camarines Sur, issued a Notice of Coverage, placing the subject property under the Comprehensive Agrarian Reform Program (CARP), which was unchallenged by petitioners.⁵

¹ *Rollo*, pp. 12-39.

² Penned by Associate Justice Socorro B. Inting, with Associate Justices Remedios A. Salazar-Fernando and Priscilla J. Baltazar-Padilla, concurring; *id.* at 50-57.

³ *Id.* at 59-60.

⁴ *Id.* at 14.

⁵ *Id.* at 199.

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Nevertheless, on July 1, 1996, petitioners filed an application for land use conversion (ALUC) from agricultural to residential use of the subject property.⁶

More than a month thereafter, the Sangguniang Bayan of Pili passed Resolution No. 45 approving the Comprehensive Zoning Ordinance of 1996 of the Municipality of Pili, Camarines Sur. Said ordinance reclassified the subject property from agricultural to highly urbanized intended for mixed residential and commercial use.⁷

Relying on the aforementioned issuances which reclassified the subject property, petitioners requested the Department of Agrarian Reform (DAR) Regional Director Percival C. Dalugdug to set aside the issuance of Notice of Coverage.⁸

Such request, however, was denied in a letter dated November 13, 1996.⁹ Subsequently, in an Order¹⁰ dated September 16, 1997, the Regional Office of the DAR denied the application on the ground of the earlier issuance of a Notice of Coverage over the subject property; that the reclassification of the area is not yet approved by the Sangguniang Panlalawigan; and a protest was lodged against the conversion of the subject property which was unresolved. Thus, the Regional Office directed the completion of the process of acquisition of the subject property under the Compulsory Acquisition Scheme for distribution to qualified beneficiaries.

Petitioners' motion for reconsideration was denied in an Order¹¹ dated January 14, 1998.

The matter was elevated to the DAR Secretary who issued an Order¹² dated February 25, 1998. Hinging on petitioners' failure to comply with documentary requirements, the DAR Secretary explained that the lack of Certification of the Provincial Planning and Development Coordinator that the proposed use conform with the approved Land Use Plan necessitated the denial of petitioners' application.

Aggrieved, petitioners filed a petition for review before the CA.

⁶ Id.

⁷ Id.

⁸ Id. at 199-200.

⁹ Id.

¹⁰ Id. at 153-157.

¹¹ Id. at 158-159.

¹² Id. at 160-167.

Essentially, they attributed grave abuse of discretion on the part of the DAR Secretary in denying their application as mere issuance of Notice of Coverage is not a ground for the denial of application.¹³

In a Resolution dated June 1, 1999, the CA dismissed the petition and maintained that the DAR decision should have been appealed before the Office of the President, being the more competent body to rule on the issue of administrative implementation of the Comprehensive Agrarian Reform Program.¹⁴

Petitioners moved for the reconsideration of such disposition, but the same was denied.¹⁵

Seeking recourse to this Court, petitioners assailed the denial of the petition, arguing that the act of the DAR Secretary may be directly challenged in a petition for *certiorari*.¹⁶

Docketed as G.R. No. 140717 entitled *Manubay v. Secretary of Department of Agrarian Reform*,¹⁷ this Court issued a Resolution¹⁸ dated April 16, 2009, denying the petition for lack of merit. Maintaining that a petition for *certiorari* is premised on grave abuse of discretion, this Court ratiocinated that petitioners failed to prove that the DAR Secretary exercised his power arbitrarily and despotically; hence, the petition must fail. Moreover, this Court emphasized that petitioners failed to exhaust administrative remedies as DAR Administrative Order No. 7, series of 1997 requires an appeal of the denial of application of conversion to the Office of the President. Thus:

WHEREFORE, the June 1, 1999 and November 4, 1999 resolutions of the Court of Appeals in CA-G.R. SP No. 47244 are hereby **AFFIRMED**.

Costs against petitioners.

SO ORDERED.¹⁹

Petitioners' motion for reconsideration was denied in a

¹³ Id. at 201.

¹⁴ Id. at 201-202.

¹⁵ Id. at 202.

¹⁶ Id.

¹⁷ 603 Phil. 135 (2009).

¹⁸ Penned by Associate Justice Renato C. Corona, with Chief Justice Reynato S. Puno and Associate Justices Antonio T. Carpio, Teresita J. Leonardo-De Castro and Lucas P. Bersamin; *rollo*, pp. 198-205.

¹⁹ Id. at 204.

Resolution²⁰ dated July 13, 2009.

In light of this Court's April 16, 2009 and July 13, 2009 Resolutions, petitioners filed an appeal before the Office of the President. Basically, petitioners asserted that the issuance of Notice of Coverage and the alleged existence of protest against the conversion were not proper grounds for the denial of the ALUC.²¹

To this, the Office of the President issued a Decision²² dated January 23, 2014. Harmonizing Administrative Order No. 12 which states that a Notice of Acquisition prevents the ALUC from being given due course and Memorandum Order No. 54 which provides that reclassification of agricultural lands cannot be undertaken without a DAR certification that the land is not covered by a Notice of Coverage, the Office of the President concluded that the prohibition of ALUC from being given due course when Notice of Acquisition was already issued necessarily includes the Notice of Coverage in the prohibition of ALUC in cases of the issuance thereof.

Likewise, petitioners' motion for reconsideration was denied in a Resolution dated August 6, 2014.²³

Undaunted, petitioners filed an appeal before the CA.

In a Decision²⁴ dated April 27, 2016, the CA upheld the denial of the ALUC based on DAR Administrative Order No. 12-94 in conjunction with Memorandum Circular (MC) No. 54, series of 1993, which essentially states that a valid reclassification of agricultural lands is necessary for ALUC; but agricultural lands already issued with a Notice of Coverage are excluded from the coverage of reclassification.

As there was a Notice of Coverage already issued as regards the subject property, the denial of the ALUC is deemed proper. The *fallo* thereof reads:

WHEREFORE, the petition for review is **DENIED** and consequently, the *Decision* dated 23 January 2014 and the *Resolution* dated 6 August 2014 of the Office of the President in O.P. Case No. 09-I-457 are **AFFIRMED**.

²⁰ Id. at 206.

²¹ Id. at 215.

²² Id. at 213-219.

²³ Id. at 52.

²⁴ Supra note 2.

SO ORDERED.²⁵

Such disposition was fortified by a Resolution²⁶ dated August 24, 2016 following petitioners' motion for reconsideration.

Hence, this petition.

This time, petitioners deny the receipt and service of the alleged Notice of Coverage, rendering the proceedings null and void; that non-issuance of the valid reclassification of the subject property is attributable to the DAR Regional Director as the latter disregarded the findings of the Department of Agriculture that the land is in fact eligible for conversion and is more economically valuable for residential and commercial purposes.²⁷

The Office of the President, thru the Office of Solicitor General, filed its Comment²⁸ praying for the denial of the petition as the period to file the appeal had lapsed; that the Office of the President was improperly impleaded; and that there was no reason to disturb the findings of the CA as the issues were already passed upon.

In their Reply,²⁹ petitioners countered that the issue on the belatedness of the filing of the appeal is moot as the CA disregarded such procedural infirmity and reiterated the arguments raised in their petition.

The petition fails.

The power of the local government units to reclassify lands from agricultural to non-agricultural through an ordinance, subject to certain conditions, is explicitly provided under Section 20, Title I, Chapter 2 of the Local Government Code of 1991 (LGC), *viz.*:

SEC. 20. *Reclassification of Lands.* -

(a) A city or municipality may, through an ordinance passed by the sanggunian after conducting public hearings for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture or (2) where the land shall have substantially greater economic value for residential, commercial, or industrial purposes,

²⁵ Id. at 56.

²⁶ Supra note 3.

²⁷ Id. at 24-34.

²⁸ Id. at 598-634.

²⁹ Id. at 640-660.

as determined by the Sanggunian concerned: Provided, That such reclassification shall be limited to the following percentage of the total agricultural land area at the time of the passage of the ordinance:

- (1) For highly urbanized and independent component cities, fifteen percent (15%);
- (2) For component cities and first to the third class municipalities, ten percent (10%); and
- (3) For fourth to sixth class municipalities, five percent (5%): Provided, further, That agricultural lands distributed to agrarian reform beneficiaries pursuant to Republic Act Numbered Sixty-six hundred fifty-seven (R.A. No. 6657), otherwise known as "The Comprehensive Agrarian Reform Law", shall not be affected by the said reclassification and the conversion of such lands into other purposes shall be governed by Section 65 of said Act.

(b) The President may, when public interest so requires and upon recommendation of the National Economic and Development Authority, authorize a city or municipality to reclassify lands in excess of the limits set in the next preceding paragraph.

(c) The local government units shall, in conformity with existing laws, continue to prepare their respective comprehensive land use plans enacted through zoning ordinances which shall be the primary and dominant bases for the future use of land resources: Provided, That the requirements for food production, human settlements, and industrial expansion shall be taken into consideration in the preparation of such plans.

(d) Where approval by a national agency is required for reclassification, such approval shall not be unreasonably withheld. Failure to act on a proper and complete application for reclassification within three (3) months from receipt of the same shall be deemed as approval thereof.

(e) Nothing in this Section shall be construed as repealing, amending, or modifying in any manner the provisions of R.A. No. 6657.

To uphold congruence among the LGC and other issuances relating to agricultural lands and the government's agrarian reform program, Memorandum Circular (MC) No. 54, series of 1993, outlining the guidelines governing Section 20, Title I, Chapter 2 of the LGC, was issued. To be specific, Section 1(d)(2) of MC. No. 54 excludes from reclassification agricultural lands which are covered by notices of coverage, to wit:

(d) In addition, the following types of agricultural lands shall not be covered by the said reclassification:

1. Agricultural lands already issued a notice of

coverage or voluntarily offered for coverage under CARP.

Verily, the exceptions provided under Section 1(d)(2) of MC No. 54 creates a limitation on the power of the local government units to reclassify agricultural lands. To reiterate, one of which is the issuance of notice of coverage removing an agricultural land from the ambit of reclassification.

In this case, a Notice of Coverage was issued against the subject land; thus, the latter is excluded from the coverage of the reclassification by the local government unit of Pili, Camarines Sur.

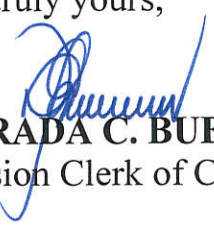
Petitioners' contention that there is an absence of receipt and service of such notice, was belied by the factual findings of the DAR Secretary, the Office of the President, and even by this Court in G.R. No. 140717. Accurately, petitioners have knowledge of said notice as they requested the setting aside of the same. In fact, the DAR Regional Director responded to such request, denied the same, and accordingly upheld the issuance of notice of coverage.

In all, there is no reason to overturn the findings of the CA.

WHEREFORE, premises considered, the instant petition is hereby **DENIED**. Accordingly, the Decision dated April 27, 2016 and Resolution dated August 24, 2016 of the Court of Appeals are **AFFIRMED**.

SO ORDERED."

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *dfb*

113



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