

## SECOND DIVISION

[ G.R. No. 204964, October 15, 2014 ]

**REMIGIO D. ESPIRITU AND NOELAGUSTIN, PETITIONERS, VS.  
LUTGARDA TORRES DEL ROSARIO REPRESENTED BY SYLVIA R.  
ASPERILLA, RESPONDENTS.**

### D E C I S I O N

**LEONEN, J.:**

Lands classified as non-agricultural in zoning ordinances approved by the Housing and Land Use Regulatory Board or its predecessors prior to June 15, 1998 are outside the coverage of the compulsory acquisition program of the Comprehensive Agrarian Reform Law. However, there has to be substantial evidence to prove that lands sought to be exempted fall within the non-agricultural classification.

This is a petition for review on certiorari<sup>[1]</sup> seeking to set aside the decision<sup>[2]</sup> dated September 28, 2012 and resolution<sup>[3]</sup> dated November 29, 2012 of the Court of Appeals. These orders reinstated the order<sup>[4]</sup> dated February 19, 2004 of then Secretary of Agrarian Reform Roberto M. Pagdanganan approving petitioner's application for exemption.

The pertinent facts are as follows:

In 1978, the City Council of Angeles City, Pampanga, enacted Zoning Ordinance No. 13, Series of 1978, classifying areas in Barangay Margot and Barangay Sapang Bato, Angeles City, as agricultural land.<sup>[5]</sup>

Pursuant to this ordinance, Lutgarda Torres del Rosario (del Rosario) allegedly requested the City Zoning Administrator to exempt from the zoning classification Lot Nos. 854 and 855 located in Barangay Margot and Barangay Sapang Bato, Angeles City.<sup>[6]</sup> The land is covered by Transfer Certificate of Title No. T-11809 with an area of 164.7605 hectares.<sup>[7]</sup> The request was allegedly approved on March 7, 1980 by Engineer Roque L. Dungca, Angeles City Development Coordinator/Zoning Administrator, and the lots were allegedly reclassified as non-agricultural or industrial lots.<sup>[8]</sup>

On June 10, 1988, the Comprehensive Agrarian Reform Law (Republic Act No. 6657) was enacted.

On October 10, 2000, del Rosario, through her representative Sylvia R. Asperilla (Asperilla), filed an application for exemption with the Department of Agrarian Reform, seeking to exempt Lot Nos. 854 and 855 from the Comprehensive Agrarian Reform Program (CARP) coverage.<sup>[9]</sup>

On February 19, 2004, then Secretary of Agrarian Reform Roberto M. Pagdanganan (Secretary Pagdanganan) issued an order granting the application for exemption. Citing Department of Justice Opinion No. 44, Series of 1990, Secretary Pagdanganan stated that lands classified as non-agricultural before the enactment of CARP are beyond its coverage.<sup>[10]</sup>

On March 26, 2004, farmers in del Rosario's landholdings, led by Remigio Espiritu (Espiritu), filed a motion for reconsideration<sup>[11]</sup> of the order. They argued that under Zoning Ordinance No. 13, Series of 1978, Housing and Land Use Regulatory Board Resolution No. 705, Series of 2001, and Angeles City Council Resolution No. 3300, Series of 2001, the landholdings were classified as agricultural, not industrial.<sup>[12]</sup> They argued that as per certifications by the Housing and Land Use Regulatory Board dated June 1, 2001, May 28, 2001, and November 24, 2003, the landholdings were within the agricultural zone, and there was no zoning ordinance passed that reclassified the area into other land uses.<sup>[13]</sup>

The motion was given due course by the Department of Agrarian Reform, this time headed by Secretary Nasser C. Pangandaman (Secretary Pangandaman). Hence, on June 15, 2006, then Secretary Pangandaman issued an order<sup>[14]</sup> granting the motion for reconsideration and revoking the earlier order of then Secretary of Agrarian Reform Pagdanganan.

Del Rosario contended that this order was sent to her through Clarita Montgomery in Barangay Margot, Sapang Bato, Angeles City, and not at Asperilla's address in Cubao, Quezon City, which was her address on record. Del Rosario alleged that she only came to know of the order on January 26, 2007, when the Provincial Agrarian Reform Officer of Pampanga handed her a copy of the order.<sup>[15]</sup> She then filed her motion for reconsideration of the order dated June 15, 2006. The motion was dated February 9, 2007.<sup>[16]</sup>

Acting on del Rosario's motion for reconsideration, Secretary Pangandaman found that the certifications issued by the Housing and Land Use Regulatory Board classified the landholdings as agricultural before June 15, 1988.<sup>[17]</sup> Based on the ocular inspections conducted by the Center for Land Use Policy, Planning and Implementation (CLUPPI), the land remained agricultural and was planted with sugar cane and corn.<sup>[18]</sup> Accordingly, Secretary Pangandaman denied del Rosario's motion in the order<sup>[19]</sup> dated March 3, 2008.

Del Rosario filed a notice of appeal<sup>[20]</sup> before the Office of the President on March 27, 2008.

On May 7, 2009, the Office of the President, through then Deputy Executive Secretary for Legal Affairs Manuel B. Gaite (Deputy Executive Secretary Gaite), rendered the decision<sup>[21]</sup> dismissing the appeal for lack of merit.

Del Rosario filed a motion for extension of 10 days to file her motion for reconsideration.<sup>[22]</sup> Citing Administrative Order No. 18, Series of 1987, and *Habaluyas Enterprises, Inc. v. Japzon*,<sup>[23]</sup> the Office of the President, through then Deputy Executive Secretary Natividad G. Dizon, denied the motion in the order<sup>[24]</sup>

dated July 14, 2009.

Aggrieved, del Rosario filed a petition for review before the Court of Appeals arguing (1) that she was denied due process when the order of Secretary Pangandaman was "erroneously sent to another address"<sup>[25]</sup> and (2) that the decision of then Deputy Executive Secretary Gaité was void since he had been appointed to the Securities and Exchange Commission two months prior to the rendering of the decision.<sup>[26]</sup>

On September 28, 2012, the Court of Appeals rendered a decision granting the petition. The Court of Appeals stated that del Rosario was indeed prevented from participating in the proceedings that led to the issuance of Secretary Pangandaman's order when the notices were sent to her other address on record.<sup>[27]</sup> It also found that the decision issued by then Deputy Executive Secretary Gaité was void since it violated Article VII, Section 13 of the Constitution.<sup>[28]</sup> The dispositive portion of the decision states:

**WHEREFORE**, premises considered, the **PETITION** is **GRANTED**. The assailed Decision dated 07 May 2009, and the Order dated 15 June 2006 are hereby **SET ASIDE**. Perforce, with the nullity of the said Decision and Order, the **Pagdanganan Order** granting exemption to petitioner's land is **REINSTATED**.

**SO ORDERED.**<sup>[29]</sup>

Their motion for reconsideration having been denied,<sup>[30]</sup> petitioners, namely Remigio Espiritu and Noel Agustin, now come before this court via a petition for review on certiorari, seeking to set aside the ruling of the Court of Appeals.

In particular, petitioners argue that respondent was not denied due process as she was able to actively participate in the proceedings before the Department of Agrarian Reform and the Office of the President.<sup>[31]</sup> They also argue that respondent was not able to present proof that Deputy Executive Secretary Gaité was not authorized to sign the decision and, hence, his action is presumed to have been done in the regular performance of duty.<sup>[32]</sup>

Respondent, on the other hand, argues that the Court of Appeals did not commit any reversible error in its decision. She argues that she was deprived of due process when Secretary Pangandaman's order was sent to the wrong address. She also argues that the Deputy Executive Secretary Gaité's decision was void since he had already been appointed to the Securities and Exchange Commission two months prior.<sup>[33]</sup>

The issue, therefore, before this court is whether the Court of Appeals correctly set aside the order of Secretary Pangandaman and the decision of Deputy Secretary Gaité and reinstated the order of Secretary Pagdanganan.

This petition should be granted.

**Respondent was not deprived of**

## due process

The Court of Appeals, in finding for respondent, stated that:

Since she was not notified, [del Rosario] was not able to participate in the proceedings leading to the issuance of the Pangandaman Order. The absence of notice that resulted in the inability of [del Rosario] to be heard indubitably confirms her claim of lack of due process. [Del Rosario] indeed was denied her day in the administrative proceedings below. And considering that [del Rosario] was not accorded due process, the Pangandaman Order is void for lack of jurisdiction. Hence, contrary to respondents' submission, it could not attain finality.<sup>[34]</sup>

The Court of Appeals, however, did not take into consideration that respondent was still able to file a motion for reconsideration of Secretary Pangandaman's order, albeit beyond the allowable period to file. In Department of Agrarian Reform Administrative Order No. 06,<sup>[35]</sup> Series of 2000:

### RULE III

#### *Commencement, Investigation and Resolution of Cases*

. . . .

SECTION 21. *Motion for Reconsideration.* — In case any of the parties disagrees with the decision or resolution, the affected party may file a written motion for reconsideration within fifteen (15) days from receipt of the order, furnishing a copy thereof to the adverse party. The filing of the motion for reconsideration shall suspend the running of the period to appeal.

Any party shall be allowed only one (1) motion for reconsideration. Thereafter, the RD or approving authority shall rule on the said motion within fifteen (15) days from receipt thereof. In the event that the motion is denied, the adverse party has the right to perfect his appeal within the remainder of the period to appeal, reckoned from receipt of the resolution of denial. *If the decision is reversed on reconsideration, the aggrieved party shall have fifteen (15) days from receipt of the resolution of reversal within which to perfect his appeal.* (Emphasis supplied)

Despite being filed late, Secretary Pangandaman still gave due course to the motion and resolved it on its merits. This is clear from his order dated March 3, 2008, which reads:

During the 50<sup>th</sup> Special CLUPPI Committee-B Meeting, held on 18 December 2007, *the Motion for Reconsideration filed by Sylvia Espirilla [sic] was deliberated upon and the Committee recommended the DENIAL of the Motion for Reconsideration* based on the following grounds:

- The certifications issued by the HLURB shows that the subject properties were classified as agricultural before 15 June 1986 [sic]; and
- Based on the ocular inspection conducted by the CLUPPI Inspection Team, it was found out that the area remained agricultural. In fact, it [is] still dominantly planted with sugar cane and corn.<sup>[36]</sup> (Emphasis supplied)

While it may be true that respondent was prevented from filing a *timely* motion for reconsideration of Secretary Pangandaman's order, it would be erroneous to conclude that she had been completely denied her opportunity to be heard. In *Department of Agrarian Reform v. Samson*:<sup>[37]</sup>

*. . . . In administrative proceedings, a fair and reasonable opportunity to explain one's side suffices to meet the requirements of due process. In Casimiro v. Tandog, the Court held:*

*The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard. In administrative proceedings, such as in the case at bar, procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. "To be heard" does not mean only verbal arguments in court; one may be heard also thru pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.*

In administrative proceedings, procedural due process has been recognized to include the following: (1) the right to actual or constructive notice of the institution of proceedings which may affect a respondent's legal rights; (2) a real opportunity to be heard personally or with the assistance of counsel, to present witnesses and evidence in one's favor, and to defend one's rights; (3) a tribunal vested with competent jurisdiction and so constituted as to afford a person charged administratively a reasonable guarantee of honesty 'as well as impartiality; and (4) a finding by said tribunal which is supported by substantial evidence submitted for consideration during the hearing or contained in the records or made known to the parties affected.<sup>[38]</sup> (Emphasis supplied)

***When respondent filed her motion for reconsideration assailing Secretary Pangandaman's order, she was able to completely and exhaustively present her arguments.*** The denial of her motion was on the basis of the merits of her arguments and any other evidence she was able to present. She was given a fair and reasonable opportunity to present her side; hence, there was no deprivation of due process.