

## THIRD DIVISION

[ G.R. No. 180471, March 26, 2010 ]

**ALANGILAN REALTY & DEVELOPMENT CORPORATION,  
PETITIONER, VS. OFFICE OF THE PRESIDENT, REPRESENTED BY  
ALBERTO ROMULO, AS EXECUTIVE SECRETARY, AND ARTHUR P.  
AUTEA, AS DEPUTY SECRETARY; AND DEPARTMENT OF  
AGRARIAN REFORM, RESPONDENTS.**

### D E C I S I O N

**NACHURA, J.:**

At bar is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by Alangilan Realty & Development Corporation (petitioner), challenging the August 28, 2007 Decision<sup>[1]</sup> and the November 12, 2007 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 76525.

Petitioner is the owner/developer of a 17.4892-hectare land in *Barangays* Alangilan and Patay in Batangas City (Alangilan landholding). On August 7, 1996, petitioner filed an *Application and/or Petition for Exclusion/Exemption from Comprehensive Agrarian Reform Program (CARP) Coverage*<sup>[3]</sup> of the Alangilan landholding with the Municipal Agrarian Reform Office (MARO) of the Department of Agrarian Reform (DAR). It averred that, in 1982, the *Sangguniang Bayan* of Batangas City classified the subject landholding as *reserved for residential* under a zoning ordinance (1982 Ordinance), which was approved by the Human Settlement Regulatory Commission. It further alleged that, on May 17, 1994, the *Sangguniang Panglungsod* of Batangas City approved the City Zoning Map and Batangas Comprehensive Zoning and Land Use Ordinance (1994 Ordinance), reclassifying the landholding as *residential-1*. Petitioner thus claimed exemption of its landholding from the coverage of the CARP. In support of its application, petitioner submitted a certification<sup>[4]</sup> dated October 31, 1995 of Zoning Administrator Delia O. Malaluan.

On May 6, 1997, then DAR Secretary Ernesto Garilao issued an Order<sup>[5]</sup> denying petitioner's application for exemption. The DAR Secretary noted that, as of February 15, 1993, the Alangilan landholding remained *agricultural, reserved for residential*. It was classified as *residential-1* only on December 12, 1994 under *Sangguniang Panlalawigan* Resolution No. 709, series of 1994. Clearly, the subject landholding was still *agricultural* at the time of the effectivity of Republic Act No. 6657, or the Comprehensive Agrarian Reform Law (CARL), on June 15, 1988. The qualifying phrase *reserved for residential* means that the property is still classified as *agricultural*, and is covered by the CARP.

The DAR Secretary disposed thus:

WHEREFORE, premises considered, the herein application for exemption involving seventeen (17) parcels of land with an aggregate area of 23.9258 hectares located [in] Calicanto, Alangilan and Patay, Batangas City is hereby GRANTED insofar as the 4.9123 hectares [of] Calicanto landholdings are concerned and DENIED with respect to the 17.4892 Alangilan properties, subject to the payment of disturbance compensation to qualified tenants, if any there be.

SO ORDERED.<sup>[6]</sup>

Petitioner moved for reconsideration of the Order, arguing that the Alangilan landholding was already *reserved* for residential use as early as October 6, 1982. Invoking this Court's ruling in *Natalia Realty, Inc. v. Department of Agrarian Reform*,<sup>[7]</sup> petitioner insisted that the subject landholding was outside the coverage of the CARP. Petitioner also submitted a *Supplemental to Motion for Reconsideration*,<sup>[8]</sup> arguing that the landholding had already been reclassified as *reserved for residential* and had been earmarked for residential use even before the effectivity of the CARL. Accordingly, its non-development into a subdivision did not remove the landholding's zoning classification as *reserved for residential*.

On July 8, 1997, petitioner submitted an *Addendum to Supplemental to Motion for Reconsideration*,<sup>[9]</sup> attaching another certification stating that the Alangilan landholding was zoned as *reserved for residential* in 1982, and became *residential-1* in 1994. In a *2<sup>nd</sup> Addendum to Supplemental to Motion for Reconsideration*,<sup>[10]</sup> petitioner submitted another certification whereby the zoning administrator withdrew her first certification and clarified that the phrase *agricultural, reserved for residential* spoke of two classifications, namely, *agricultural* (coded brown in the map) and *reserved for residential* (coded brown with diagonal lines), stating further that the Alangilan landholding was *reserved for residential*.

However, the DAR Secretary was not at all persuaded, and denied petitioner's motion for reconsideration on December 21, 1998, *viz.*:

After a careful review and evaluation of the case, this Office finds no cogent reason to reverse its Order, dated 6 May 1997.

Administrative Order No. 6, series of 1994 provides that "lands that are classified as commercial, industrial or residential before 15 June 1988 no longer need any conversion clearance"; as such, they are exempt from the coverage of R.A. [No.] 6657.

The phrase "Reserved for Residential" is not a zoning classification contemplated in the aforestated A.O. as to exempt a particular land from the coverage of R.A. 6657. Moreso in this case, because the phrase was attached to the word "Agricultural"; in fact, we can say that it merely qualified the term "Agricultural." We believe that the correct interpretation of the zoning should be that the land is agricultural, but it may be classified and used for residential purposes in some future time, precisely, because it has been reserved for residential use. This

interpretation is supported by the fact that the zoning of the land became Residential only in 1994, per Ordinance No. 3, series of 1994, which established a Comprehensive Zoning Regulation and Land Use for Batangas City. To reiterate, the Sanggunian Members of Batangas City would have expressly, unequivocally, and unqualifiedly zoned the area as "residential" if they had intended it to be zoned as such in 1982. They never did until the issuance of Ordinance No. 3 in 1994.

It is also important to note, that the legend used in the Zoning Map of Batangas City approved by HSRC (now HLURB) per Resolution No. 92, dated 6 October 1982, indicated a certain kind of arrangement which put in sequential order those that were similarly zoned, but with different qualifications and/or characteristics. Thus, "residential-1," "residential-2," and "residential-3" were placed on top of the list one after the other, while "Agricultural, reserved for residential" and mining agricultural were put at the bottom, but also enumerated one after the other. If the subject properties were classified more of residential than agricultural, it should have been placed in the legend right after "residential-3", and the color that should have been used was not brown but a shade of white with diagonal lines to reflect its dominant residential character.

Even the Applicant was aware that the classification of the area was agricultural. In his letter to the MARO of Batangas City, dated 24 October 1995, the Applicant categorically admitted that the Alangilan Landholding was classified as agricultural. The said letter stated as follows:

At present, the subject properties are classified as agricultural. However, Barangay Alangilan where these properties are located have been declared by an ordinance of the Municipal Council of Batangas City as commercial, industrial and/or residential.

As to what ordinance the Applicant was referring to was not specified. However, it seems obvious that he was referring to the 1994 Comprehensive Zoning Regulations and Land Use for Batangas City (Ordinance No. 3, series of 1994). The previous zoning ordinance, i.e. the Batangas City Zoning Ordinance approved under HSRC Resolution No. R-92, series of 1982, dated 6 October 1982, classified the said landholding as "Agricultural, Reserved for Residential." It was Ordinance No. 3, series of 1994 that explicitly classified the area as "Residential-1."

This Office, therefore, is convinced that the zoning classification of the Alangilan Landholding prior to 15 June 1988 was Agricultural, although with the qualification that it had been reserved for residential use. The ocular inspection conducted in 1996 by the representatives of the MARO, PARO and RARO confirmed that the Alangilan Landholding was still used for agricultural purposes. The area was planted with mangoes and coconuts.

We could not give credence to the 3<sup>rd</sup> Certification, dated 9 December 1997, of Zoning Administrator Delia Malaluan-Licarte, because it does not conform to the Batangas City Zoning Ordinance and Map approved under HSRC Resolution No. R-92, series of 1982, dated 6 October 1982. In the

first place, what is asked from Zoning Administrators is merely to state the kind of classification/zoning where a certain area falls as provided in the approved Zoning Ordinance. In the case at bar, the Zoning Administrator went beyond her authority. In effect, she reclassified the area from "Agricultural, Reserved for Residential" to "Reserved for Residential" by claiming that there were actually two zones provided by the Sanggunian Members. It was actually a modification of the zoning ordinance which, to us, is clearly unwarranted.

Moreover, even assuming the Zoning Administrator is correct, the classification "Reserved for Residential" is not within the contemplation of A.O. No. 6, series of 1994. The said A.O. talks about lands that were classified as residential before 15 June 1988. Alangilan Landholding was merely reserved for Residential. It connotes something in the future, which is, that the land may be classified as residential in some future time. It was identified as an expansion area, nothing else. The fact remains that in 1982, the landholding was still Agricultural, and this fact is not changed by the re-interpretation made by Zoning Administrator Delia Malaluan-Licarte.<sup>[11]</sup>

On appeal, the Office of the President (OP) affirmed the decision of the DAR Secretary:

WHEREFORE, premises considered, the instant appeal is hereby DISMISSED and the appealed Order dated 21 December 1998 of the Department of Agrarian Reform [is] AFFIRMED in *toto*.

Parties are required to INFORM this Office, within five (5) days from notice, of the dates of their receipt of this Decision.

SO ORDERED.<sup>[12]</sup>

A motion for reconsideration was filed, but the motion also suffered the same fate, as the OP denied it on March 20, 2003.<sup>[13]</sup>

Petitioner went up to the CA *via* a petition for review on *certiorari*, assailing the OP decision. On August 28, 2007, the CA dismissed the petition. The CA noted the report of MARO, Provincial Agrarian Reform Office (PARO), and Regional Agrarian Reform Office (RARO) that the Alangilan landholding was devoted to agricultural activities prior to the effectivity of the CARP on June 15, 1988 and even thereafter. Likewise, there was no showing that it was classified as commercial, industrial, or residential in town plans and zoning ordinances of the Housing and Land Use Regulatory Board. Accordingly, the Alangilan property did not cease to be agricultural. The 1994 Ordinance classifying the property as *residential-1* did not convert or reclassify the Alangilan landholding as residential because there was no proof that a conversion clearance from the DAR was obtained. Thus, despite its reclassification in 1994 by the City Government of Batangas, the Alangilan landholding remained under CARP coverage. Petitioner filed a motion for reconsideration, but the CA denied it on November 12, 2007.