

SECOND DIVISION

[G.R. No. 173428, November 22, 2010]

FROILAN DEJURAS, PETITIONER, VS. HON. RENE C. VILLA, IN HIS OFFICIAL CAPACITY AS SECRETARY OF AGRARIAN REFORM; THE BUREAU OF AGRARIAN LEGAL ASSISTANCE, THE CENTER FOR LAND USE AND POLICY PLANNING INSTITUTE, THE DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD, ALL OF THE DEPARTMENT OF AGRARIAN REFORM; CONCHITA DELFINO; ANTHONY DELFINO; ARTEMIO ALON; AND SM PRIME HOLDINGS, INC., RESPONDENTS.

D E C I S I O N

PERALTA, J.:

This is a petition for review under Rule 45 of the Rules of Court assailing the January 10, 2006 Decision^[1] and the June 30, 2006 Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 88588. The assailed decision denied due course to and dismissed petitioner Froilan Dejuras' petition for *mandamus* with prayer for the issuance of temporary restraining order and writ of preliminary injunction against Department of Agrarian Reform Secretary Rene C. Villa and the Department of Agrarian Reform Adjudication Board Region IV, whereas the assailed resolution denied reconsideration.

The facts follow.

On November 29, 1996, Eutiquio Dejuras, predecessor-in-interest of herein petitioner, filed with the Laguna Provincial Agrarian Reform Adjudicator (PARAD) a Complaint,^[3] docketed as DARAB Case No. 0449-95, against Luis and Anthony Delfino and Artemio Alon, Jr. (Artemio) for the redemption of a 19,570 square meter piece of land located in Sta. Rosa, Laguna. The land, identified as Lot No. 1383-B, forms part of a 39,570 square-meter property now registered in the name of SM Prime Holdings, Inc. (SMPHI) under Transfer Certificate of Title (TCT) No. 502647.

^[4] The complaint alleged that Eutiquio had been a legitimate tenant/leaseholder on the land for 50 years with authority from the former owners thereof, namely, the spouses Luis and Conchita Delfino, but that in 1987, Luis donated the property to his son, Anthony, who, without notice to Eutiquio, later sold it to his cousin, Artemio.

^[5] Eutiquio thus prayed that the sale to Artemio be revoked and that he be given the first option to buy the property in accordance with Section 12 of Republic Act No. 3844 (the Agricultural Land Reform Code).^[6]

The PARAD dismissed the complaint on June 18, 1996 and found Eutiquio to be a mere civil law lessee and not an agricultural leaseholder or tenant-tiller as alleged, and hence, not entitled to the right of redemption.^[7] Eutiquio immediately appealed to the Department of Agrarian Reform Adjudication Board (DARAB)^[8]

which, on June 17, 1998, reversed the PARAD and held Eutiquio to be an agricultural lessee/tenant-tiller entitled to exercise the right of redemption.^[9] On motion for reconsideration by the Delfinos and Artemio, however, the DARAB, in its September 30, 1999 Resolution, reversed its earlier decision and reinstated the PARAD's decision.^[10]

This time around, Eutiquio filed on November 8, 1999 a Motion for Reconsideration of the September 30, 1999 Resolution. Without action being taken on the motion, however, the DARAB, on August 31, 2000, issued an entry of judgment in the case.^[11] Consequently, on February 14, 2001, the PARAD issued a Writ of Execution.^[12] Eutiquio meantime died and was substituted by his son, Florencio Dejuras, who lost no time in seeking the quashal of the writ of execution on the ground of the pendency of Eutiquio's motion for reconsideration of the DARAB's September 30, 1999 Resolution.^[13]

In the interim between the entry of judgment in the redemption case and the issuance of the writ of execution therein, former DAR Secretary Horacio Morales, at the instance of Artemio,^[14] issued an Exemption Order on December 26, 2000 exempting Lot No. 1383 from the coverage of agrarian reform.^[15] On the basis of this development, Conchita, as Artemio's attorney-in-fact, executed a deed of absolute sale over the subject property in favor of SMPHI.^[16] SMPHI then proceeded to buy out the surrounding pieces of property on which the SM City Sta. Rosa shopping mall was to be built.

On October 13, 2004, faced with the prospect of ejectment due to SMPHI's impending construction operations on the property, Florencio and his successor-in-interest, herein petitioner, filed with the DAR Regional Office a "Petition for Coverage with Urgent Prayer for Issuance of Cease-and-Desist Order"^[17] against SMPHI, Conchita, Anthony and Artemio. They prayed that a cease-and-desist order be issued to enjoin SMPHI from entering the property; that the land be declared as covered by the agrarian reform program and that their family be declared qualified beneficiaries thereof.^[18] Two days later, or on October 15, 2004, the DAR issued a Cease-and-Desist Order directing SMPHI to refrain from pursuing the development of the subject property.^[19] SMPHI moved to recall the Cease-and-Desist Order and immediately filed an Opposition to the Petition for Coverage.^[20]

On November 3, 2004, Florencio and petitioner also filed with the Office of Secretary Villa a "Petition for Revocation of Exemption Order" alleging that the exemption order dated December 26, 2000 issued by former Secretary Morales was procured and issued with fraud, serious error, grave abuse of discretion and manifest partiality.^[21] Then, on December 15, 2004, DAR Regional Director Dominador Andres issued an Order^[22] denying for lack of merit the Petition for Coverage and lifting the October 15, 2004 Cease-and-Desist Order.

From the denial of the Petition for Coverage, Florencio and petitioner immediately lodged an appeal with the Office of Secretary Villa.^[23] Before the same office, they also filed an "Urgent *Ex Parte* Motion for Issuance of Cease-and-Desist Order or Writ of Preliminary Injunction" in connection not only with the Petition for Coverage under appeal, but also in connection with the Complaint for Redemption as well as

with the Petition for Revocation, whereby they prayed that SMPHI be enjoined from entering into and carrying out development and construction operations on the subject property.^[24]

Petitioner and Florencio had sought the early resolution of this motion, yet despite their efforts in filing six successive motions^[25] to that end, it appears that the Office of the DAR Secretary had not promptly come up with a resolution on the application for injunctive relief.

Florencio meantime died and was survived by petitioner, who then instituted a Petition for Mandamus^[26] before the Court of Appeals, docketed as CA-G.R. SP No. 88588, specifically praying that a temporary restraining order be issued *ex parte* to prevent SMPHI from proceeding with its construction operations; that the DARAB be directed to resolve Eutiquio's earlier motion for reconsideration of the September 30, 1999 Resolution in DARAB Case No. 5485; and that Secretary Villa be ordered to grant the urgent *ex parte* motion for injunctive relief.^[27]

On January 10, 2006, the Court of Appeals issued the assailed Decision denying due course to and dismissing the petition as follows:

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.

SO ORDERED.^[28]

The Court of Appeals' reluctance to issue the writ of *mandamus* was informed by the supervening fact that *first*, on February 23, 2005, the DAR did indeed come up with an Order^[29] denying petitioner's "Urgent *Ex Parte* Motion for the Issuance of a Cease-and-Desist Order/Writ of Preliminary Injunction" and, *second*, the DARAB likewise did issue a Resolution on April 20, 2005 denying Eutiquio's pending motion for reconsideration in the Petition for Redemption. Also, the Court of Appeals pointed out that *mandamus* does not avail to address the errors which the public respondents below may have committed, as the said remedy avails only in relation to official duties which are ministerial in character.^[30]

Yet despite the issuance of the February 23, 2005 DAR Order and the April 20, 2005 DARAB Resolution denying respectively the "Urgent *Ex Parte* Motion for the Issuance of Writ of Preliminary Injunction/Cease-and-Desist Order" and Eutiquio's motion for reconsideration in the Petition for Redemption, petitioner still moved for a reconsideration of the assailed Decision of the Court of Appeals.^[31] With the denial thereof,^[32] he now seeks recourse to this Court in the present petition for review.

Petitioner faults the Court of Appeals in not giving weight to the issuance by the DAR in the Petition for Coverage of a cease-and-desist order against SMPHI which only signifies that there is *prima facie* basis to grant the urgent *ex parte* motion for injunctive relief,^[33] as well as to the fact that the subsequent lifting of the cease-and-desist order and the dismissal of the Petition for Coverage have both undermined the Petition for Redemption.^[34] He alleges that the Court of Appeals has overlooked that the December 26, 2000 Exemption Order was the basis used in

the urgent *ex parte* motion in the Petition for Coverage and that despite the exemption order, the ownership of the land is still being litigated in CA-G.R. SP No. 90111-- an appeal pending in the Court of Appeals which is an offshoot of the Petition for Redemption.^[35]

Interestingly, while petitioner admits that it was only after the filing of the petition for *mandamus* with the Court of Appeals did the DAR act on the Urgent *Ex Parte* Motion, he nevertheless characterizes the action of the DAR to be quite predictable, leaning as it does in favor of SMPHI and allegedly based solely on the December 26, 2000 Exemption Order previously issued by former DAR Secretary Morales.^[36] Petitioner notes that the SM City Sta. Rosa shopping mall is already complete, but nonetheless seeks the reversal of the herein assailed decision so that the DAR may be compelled to issue an injunction in the Petition for Coverage and Petition for Revocation and that SMPHI may be directed to restore actual possession of, and be enjoined from, performing further acts of ownership over the disputed property.^[37]

Commenting on the petition, SMPHI emphasizes the DARAB's finding that Eutiquio had always been only a civil law tenant and, hence, the Court of Appeals was correct in dismissing the mandamus petition mainly because Eutiquio had no tenurial rights to speak of which might have otherwise been violated.^[38] It likewise calls attention to a 1981 zoning ordinance issued by the Housing and Land Use Regulatory Board declaring the subject property to be within the light industrial zone and which previously gave the DAR the justification in granting Artemio's petition for exemption.^[39] For their part, the Dejurases and Artemio posit that there is no room in the instant case for factual assertions and evidentiary evaluation inasmuch as only questions of law may be raised in a Rule 45 petition.^[40]

The Court denies the petition.

Petitioner has made an extensive, effortful and elaborate essay on the factual aspects not only of the Petition for Redemption, but also of the Petition for Coverage and the Petition for Revocation of Exemption Order -- particularly on the controverted nature of Eutiquio's possession of the subject land. That issue, however, is not for this Court to address, and certainly not in the instant petition which brings only the issue of whether the Court of Appeals was correct in declining to issue the writ of *mandamus* and in not compelling the DARAB to resolve Eutiquio's motion for reconsideration in the Petition for Redemption and the DAR to issue the cease-and-desist order, or writ of preliminary injunction prayed for, in the Petition for Redemption, Petition for Coverage and Petition for Revocation.

But perhaps as a last-ditch attempt to turn the table in his favor following the unfavorable issuance of the February 23, 2005 DAR Order denying the "Urgent *Ex Parte* Motion for the Issuance of Writ of Preliminary Injunction/Cease-and-Desist Order" and of the April 20, 2005 DARAB Resolution denying Eutiquio's motion for reconsideration in the Petition for Redemption, petitioner now pursues a different theory by claiming that the DAR and the DARAB have exceeded their authority and committed grave abuse of discretion and manifest injustice in issuing the said order and resolution. Verily, petitioner is grasping at straws.

Established is the procedural law precept that a writ of *mandamus* generally lies to compel the performance of a ministerial duty, but not the performance of an official