449 Phil. 262

THIRD DIVISION

[G.R. No. 149422, April 10, 2003]

DEPARTMENT OF AGRARIAN REFORM, PETITIONER VS. APEX INVESTMENT AND FINANCING CORPORATION (NOW SM INVESTMENT CORPORATION), RESPONDENT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari[1] filed by the Department of Agrarian Reform (DAR) assailing the Decision[2] of the Court of Appeals dated April 26, 2001 in CA-G.R. SP No. 55052, *"Apex Investment and Financing Corporation vs. Department of Agrarian Reform, et al.;"* and its Resolution dated August 2, 2001 denying petitioner's motion for reconsideration.

Respondent Apex Investment and Financing Corporation (now SM Investments Corporation), registered under the laws of the Philippines, owns several lots located at Barangay Paliparan, Dasmariñas, Cavite, covered by Transfer Certificates of Title (TCT) Nos. T-72491, T-90474, T-90475, T-90476, and T-90477.

On August 24, 1994, the Municipal Agrarian Reform Office (MARO) of Dasmariñas initiated compulsory acquisition proceedings over those lots pursuant to Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988. The MARO issued a Notice of Coverage informing respondent of the compulsory acquisition and inviting it to a meeting set on September 8, 1994; and Notice of Acquisition. Copies of these notices were sent to respondent's office at 627 Echague Street, Manila. However, respondent denied having received the same because it was no longer holding office there.

Respondent learned of the compulsory acquisition proceedings from the December 11, 1997 issue of the *Balita* stating, among others, that **TCT No. T-90476, covering respondent's lot consisting of 23,614 square meters,** has been placed under the compulsory acquisition program. Forthwith, petitioner sent respondent a copy of the Notice of Land Valuation and Acquisition dated July 24, 1997, offering to pay it P229,014.33 as compensation for the lot covered by TCT No. T-90476.

On January 12, 1998, respondent filed with the PARO a Protest rejecting the offer of compensation and contending that its lands are not covered by R.A. No. 6657 because they were classified as residential even prior to the effectivity of the law. Attached to its protest are copies of its land titles, tax declarations, location map and other supporting documents.

On March 27, 1998, respondent filed with the PARO a Supplemental Protest with (a) the Certification issued by Engineer Baltazar M. Usis, Regional Irrigation Manager of

the National Irrigation Administration, Region IV, stating that respondent's lots are not covered by any irrigation project; and (b) the Certification issued by Engineer Gregorio Bermejo, Municipal Engineer and Deputized Zoning Administrator of Dasmariñas, Cavite, attesting that the same lots are within the **residential zone** based on the Land Use Plan of the Municipality of Dasmariñas duly approved by the Housing and Land Use Regulatory Board (HLURB) in its Resolution No. R-42-A-3 dated February 11, 1981.

It was only on February 15, 1999, or **more than one year** after respondent filed its protest, that the PARO forwarded to petitioner DAR the said protest together with the records of the compulsory acquisition proceedings.

On June 21, 1999, respondent received a letter dated May 28, 1999 from petitioner requiring it to submit certified true copies of the TCTs covering its lots and a Certification from the HLURB attesting that they are within the residential zone of Dasmariñas based on HLURB Resolution No. R-42-A-3 dated February 11, 1981.

Thereafter, respondent learned that on June 24, 1999, the Registry of Deeds of Cavite cancelled one of its titles, TCT No. T-90476, and in lieu thereof, issued TCT No. T-868471 in the name of the Republic of the Philippines.

On July 26, 1999, respondent came to know that TCT No. T-868471 was cancelled and in lieu thereof, TCT No. CLOA-2473 was issued in the name of Angel M. Umali, a farmer-beneficiary allegedly occupying the land. This prompted respondent to file with the Court of Appeals a petition for certiorari and prohibition praying that the compulsory acquisition proceedings over its landholdings be declared void and that TCT No. CLOA-2473 issued to Angel Umali be cancelled.

In its comment, petitioner alleged that respondent failed to exhaust all administrative remedies before filing its petition. Hence, the same should be dismissed.

On April 26, 2001, the Court of Appeals rendered its Decision, the dispositive portion of which reads:

> "**WHEREFORE,** the petition for certiorari is hereby granted and judgment is hereby rendered as follows:
>
> a) declaring the compulsory acquisition under Republic Act No. 6657 as null and void *ab initio*;
>
> b) prohibiting public respondents PARO and DAR from continuing with the compulsory acquisition proceedings over TCT No. T-72491; TCT No. T-90474; TCT No. T-90475; and TCT No. T-90477;
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> compulsory acquisition proceedings over TCT No. T-72491; TCT No. T-90474; TCT No. T-90475; and TCT No. T-90477;
>
> c) prohibiting public respondent Register of

Deeds of Cavite from cancelling the land titles of petitioner, i.e., TCT No. T-72491; TCT No. T-90474; TCT No. T-90475; and TCT No. T-90477 and the transferring, conveying and alienation thereof; and

d) ordering the Register of Deeds of Cavite to restore TCT No. T-90476 (now CLOA 2473) in the name of petitioner.

"**SO ORDERED.**"

Petitioner filed a motion for reconsideration but was denied in the Resolution dated August 2, 2001.

Hence, the instant petition for review on certiorari.

Petitioner ascribes to the Court of Appeals the following errors: (a) in ruling that respondent corporation did not violate the principle of exhaustion of remedies; (b) in holding that respondent was deprived of its right to due process; and (c) in concluding that the subject parcels of land are residential, hence, not covered by R.A. No. 6657.

On the first assigned error, this Court has consistently held that the doctrine of exhaustion of administrative remedies is a relative one and is flexible depending on the peculiarity and uniqueness of the factual and circumstantial settings of a case.[3] Among others, it is disregarded where, as in this case, (a) there are circumstances indicating the urgency of judicial intervention;[4] and (b) the administrative action is patently illegal and amounts to lack or excess of jurisdiction.[5]

Records show that the PARO did not take immediate action on respondent's Protest filed on January 12, 1998. It was only on February 15, 1999, or after more than one year, that it forwarded the same to petitioner DAR. Since then, what petitioner has done was to require respondent every now and then to submit copies of supporting documents which were already attached to its Protest. In the meantime, respondent found that the PARO had caused the cancellation of its title and that a new one was issued to an alleged farmer-beneficiary.

In *Natalia Realty vs. Department of Agrarian Reform,*[6] we held that the aggrieved landowners were not supposed to wait until the DAR acted on their letter-protests (**after it had sat on them for almost a year**) before resorting to judicial process. Given the official indifference which, under the circumstances could have continued forever, the landowners had to act to assert and protect their interests. Thus, their petition for certiorari was allowed even though the DAR had not yet resolved their protests. In the same vein, respondent here could not be expected to wait for petitioner DAR to resolve its protest before seeking judicial intervention. Obviously, petitioner might continue to alienate respondent's lots during the pendency of its protest. Hence, the Court of Appeals did not err in concluding that on the basis of the circumstances of this case, respondent need not exhaust all administrative remedies before filing its petition for certiorari and prohibition.

As to the second assigned error, we find that petitioner was deprived of its