



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated December 2, 2020 which reads as follows:

“G.R. No. 200436 – (GROUP DEVELOPERS, INC., REPRESENTED BY FRANCISCO D. ALIPIT, *petitioner* v. KOOPERATIBA NG SANDIGAN NG MAGSASAKANG PILIPINO, INC. (KSMP), REPRESENTED BY THE NATIONAL PRESIDENT MATEO P. BIHAG AND CHAPTER PRESIDENT LEANDRO B. ATIENZA, *respondent*). – Subject to review under Rule 45 of the Rules of Court at the instance of Group Developers, Inc. (petitioner), are the Decision¹ dated July 13, 2011 and the Resolution² dated November 17, 2011 in CA-G.R. SP No. 113920, whereby the Court of Appeals (CA) reversed the Department of Agrarian Reform’s (DAR) Order³ dated April 5, 2006 and Resolution⁴ dated April 6, 2010, in DARCO Order No. EX-0604-115.

The Antecedents

On January 20, 2006, petitioner, applied for Comprehensive Agrarian Reform Program (CARP) exemption of its five lots located in Caylaway, Nasugbu, Batangas, covered by Transfer Certificate of Title Nos. T-44636, T-44646, T-44647, T-44634 and T-90593 with a total area of 127.6845 hectares.

On April 5, 2006, the Department of Agrarian Reform (DAR) issued an Order exempting from CARP coverage the subject parcels of land. In arriving at such conclusion, the DAR ratiocinated that

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¹ *Rollo*, pp. 99-112; penned by Associate Justice Estela M. Perlas-Bernabe (now a Member of this Court), with Associate Justices Bienvenido L. Reyes (now a retired Member of this Court) and Elihu A. Ybañez, concurring.

² *Id.* at 122-123; penned by Associate Justice Elihu A. Ybañez, with Associate Justices Celia C. Librea-Leagogo and Angelita A. Gacutan, concurring.

³ *Id.* at 44-49.

⁴ *Id.* at 50-53.

Presidential Proclamation No. 1520, Series of 1975 had placed the municipalities of Maragondon and Ternate, Cavite and Nasugbu before the effectivity of Republic Act (R.A.) No. 6657, as within the Tourist Zone. Having been classified as Tourist Zone not only by a presidential proclamation, but also by the Philippine Tourist Zone prior to June 15, 1988, such classification is binding before the DAR. Likewise, Department of Justice Opinion No. 44, Series of 1990 provides that all lands already classified as commercial, industrial or residential before June 15, 1988 no longer need any conversion clearance from the DAR.⁵ Accordingly, DAR disposed the case in this wise:

WHEREFORE, premises considered, the Application for Exemption over five (5) parcels of land with an aggregate area of 127.6845 hectares located in Barangay Kaylaway, Nasugbu, Batangas filed by Group Developers Inc., is hereby GRANTED, subject to the following conditions.

- Disturbance compensation shall be paid to the affected tenants, farmworkers, or bona fide occupants, if any in such amount or kind as maybe MUTUALLY AGREED upon and approved by the DAR. It shall be paid within sixty (60) days from the date of receipt by the applicant of this Order, proof of such payment to be furnished the CLUPPI Secretariat within five (5) days from expiration of the aforementioned 60-day period;
- The applicant shall allow duly authorized representatives of the DAR free and unhampered access to the subject property for the purpose of monitoring compliance with the terms and conditions hereof, and
- The DAR reserves the right to cancel or withdraw this Order for misrepresentation of facts integral to its issuance and/or for violation of the law and applicable rules and regulations on land use exemption/exclusion.

FURTHERMORE, the Notice of Coverage issued is hereby LIFTED.

SO ORDERED.⁶

Aggrieved, respondent Kooperatiba ng Sandigan ng Magsasakang Pilipino, Inc. (KSMP) moved for reconsideration. It was, however, denied in a Resolution⁷ dated April 6, 2010.

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⁵ Id. at 47-48.

⁶ Id. at 48.

⁷ Id. at 50-53.

On review, the CA overturned the DAR's approval of the CARP exemption of the subject parcels of land. The appellate court ruled that Part II of the DAR Administrative Order (AO) No. 4, series of 2003 requires applicants for CARP exemption to submit the mandatory documentary requirements enumerated therein prior to its approval or disapproval; and considering that petitioner failed to submit all these mandatory documents, its non-compliance is a sufficient ground for the dismissal of its application.⁸ The *fallo* of the CA July 13, 2011 Decision reads:

WHEREFORE, premises considered, the instant petition is GRANTED and the assailed DAR Order dated April 5, 2006 and Resolution dated April 6, 2010 are hereby REVERSED AND SET ASIDE.

SO ORDERED.⁹

Dissatisfied, petitioner filed a motion for reconsideration¹⁰ and a second motion for reconsideration¹¹ assailing the July 13, 2011 Decision of the CA. Both were, however, denied per Resolution¹² dated November 17, 2011.

Hence, the instant petition for review on *certiorari*¹³ interposing the following issues:

Issues

I.

Whether the [CA] acted in accord with Supreme Court decisions on forum shopping and exhaustion of administrative remedies when it assumed jurisdiction and eventually rendered adverse decision in CA GR SP No. 113920;

II.

Whether the Court of Appeals acted in accord with Supreme Court decisions in *Rom v. Roxas* (G.R. No. 169331, September 5, 2011) when it reversed the DAR exemption Orders.¹⁴

The parties' arguments

Petitioner raises the issue of forum shopping. It insists that respondent committed forum shopping when, after the issuance of the

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⁸ Id. at 103-110.

⁹ Id. at 112.

¹⁰ Id. at 114-121.

¹¹ Id. at 130-138.

¹² Id. at 122-123.

¹³ Id. at 3-16.

¹⁴ Id. at 6.

DAR's April 5, 2006 Order and April 5, 2010 Resolution, respondent filed a notice of appeal with the Office of the President and at the same time, filed a petition for review with the CA, both assailing the same DAR orders.

Petitioner likewise argues that the CA should have taken into consideration the ruling in the case *Rom v. Roxas & Co., Inc.*,¹⁵ whereby this Court exempted lots adjacent and similarly situated to the subject parcel of lands from the coverage of the CARP. Finally, petitioner insists that despite failure to submit all the documents required by DAR AO No. 6, Series of 2003, it had substantially complied with such documentary requirements.

Respondent, on the other hand, refutes the existence of forum shopping. It avers that the issue has already been settled considering that Hector L. Fajardo, a member of the KSMP filed a notice of appeal before the Office of the President in his personal capacity and not on behalf of respondent.

The Court's Ruling

The petition is bereft of merit.

Part II of DAR AO No. 4, Series of 2003, otherwise known as the "2003 Rules on Exemption of Lands from CARP Coverage Under Section 3(c) of Republic Act No. 6657 and Department of Justice Opinion No. 44, Series of 1990," requires, mandates and obliges applicants to submit in quadruplicate the following documents:

x x x x

2.1 Official receipt showing proof of payment of filing and inspection fees.

2.2 Sworn Application for CARP Exemption or Exclusion, duly accomplished, and subscribed and sworn to before a notary public or any person authorized to administer oaths.

x x x x

2.2.2 Notarized secretary's certificate of a corporate or cooperative board resolution authorizing the applicant's representative to file the Sworn Application for CARP Exemption if the applicant is a corporation or cooperative or some other juridical entity. The applicant shall also submit its latest notarized General Information Sheet (GIS) which must

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¹⁵ 672 Phil. 342 (2011).

comply with pertinent requirements of the Securities and Exchange Commission.

2.3 True copy of the Original Certificate of Title (OCT) or Transfer Certificate of Title (TCT) of the subject land, certified by the Register of Deeds not earlier than thirty (30) days prior to application filing date.

x x x x

2.4 Land classification certification:

2.4.1 Certification from the Housing and Land Use Regulatory Board (HLURB) Regional Officer on the actual zoning or classification of the subject land in the approved comprehensive land use plan, citing the municipal or city zoning ordinance number, resolution number, and date of its approval by the HLURB or its corresponding board resolution number.

x x x x

2.5 Certification of the National Irrigation Administration (NIA) that the area is not irrigated nor scheduled for irrigation nor irrigable with firm funding commitment.

2.6 Certification of the Municipal Agrarian Reform Officer (MARO) attesting compliance with the public notice requirement in Part III hereof and its corresponding report in 7.6 hereof.

x x x x

2.8 Proof of receipt of payment of disturbance compensation or a valid agreement to pay or waive payment of disturbance compensation.

2.9 Affidavit/Undertaking in a single document of the applicant stating:

2.9.1 The number and names of the farmers, agricultural lessees, share tenants, farmworkers, actual tillers, and/or occupants in the landholding; if there are no such persons, a statement attesting to such fact;

2.9.2 That the applicant has erected the billboard(s) required in Part III hereof; and undertakes not to remove, deface or destroy the same; and that he shall repair or replace the same when damaged, until after the approving authority disposes of the application with finality;

2.9.3 That he has not committed any act of forum shopping as defined in the rules governing Agrarian Law Implementation cases; and

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2.9.4 That when there is a dispute on the fixing of disturbance compensation pending before the Provincial Agrarian Reform Adjudicator (PARAD) or the Regional Agrarian Reform Adjudicator (RARAD) or DAR Adjudication Board (DARAB), the applicant shall abide with the decision of the Adjudicating Authority in the fixing of disturbance compensation.

2.10 Lot plan prepared by a duly licensed geodetic engineer indicating the lots being applied for and their technical descriptions.

2.11 Vicinity or directional map to assist the ocular inspection team in locating the subject land. The directional map need not be drawn to scale but must show the orientation of the subject land in relation to adjoining lands; existing infrastructures and improvement thereon including any house or tillage by any occupant therein; owners of adjacent properties; the nearest barangay, municipal, city, and/or provincial feeder road; and other popular landmarks within a one (1) kilometer radius.

x x x x

Of these documentary requisites, petitioner submitted the following: “(a) Official Receipt of payment of inspection and filing fee; (b) application for exemption of lands from CARP coverage; (c) Secretary’s Certificate; (d) certified true copy of transfer certificates of title; (e) tax declarations for each lot; (f) Philippine Tourism Authority Certification dated September 8, 2003; (g) Housing and Land Use Regulatory Board (HLURB) Certification dated December 19, 2005 that the subject landholdings are zoned for mixed use development per the approved Comprehensive Land Use Plan/Zoning Ordinance of Nasugbu, Batangas adopted through its Sangguniang Bayan (SB) Resolution No. 28, series of 2002 dated February 8, 2002 and approved by the HLURB under Resolution No. R-787, series of 2005 dated November 7, 2005; (h) Department of Environment and Natural Resources (DENR) Certification dated October 25, 2002; (i) a Certificate of Eligibility for Reclassification of Agricultural Lands issued by the Department of Agriculture; (j) National Irrigation Administration (NIA) Certification dated August 26, 2002; (k) Certification dated July 16, 2002 issued by the Municipal Agrarian Reform Office, Nasugbu, Batangas; (l) pictures of the property with the Notice of exemption application; (m) Affidavit of Undertaking on the payment of just compensation; and (n) a vicinity map.”¹⁶

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¹⁶ Rollo pp. 10-11.

As observed by the appellate court, of the list enumerated by the Rules on Exemption of Lands from CARP Coverage Under Section 3 (c) of R.A. No. 6657 and Department of Justice Opinion No. 44, Series of 1990, petitioner failed to present and submit several documents when it applied for CARP exemption before the DAR, such as: (a) its latest General Information Sheet as provided under item 2.2.2.; (b) MARO certification attesting compliance with public notice requirement as required under item 2.6.; (c) affidavit stating the number of occupants and the nature of their possession; compliance with the public notice requirement; non-forum shopping, among others, which is provided under item 2.9.; and (d) Lot Plan prepared by a duly licensed geodetic engineer indicating the lots being applied for and their technical description as prescribed under item 2.10.¹⁷

Admittedly, this Court, in the case of *Rom v. Roxas & Co., Inc.*,¹⁸ has declared Roxas' submission of deficient documents as substantial compliance with the documentary requirements set forth by pertinent rules considering that he was able to show that the parcels of land subject of an application for exemption has been already re-classified as residential prior to the effectivity of the CARL.¹⁹ Such pronouncement, however, is not applicable to the instant case.

This Court holds and so rule that the information disclosed in the submitted documents fails to give the DAR pertinent factual basis on which to anchor its factual and legal findings. In other words, the documents wanting in the case at bench are substantial in as much as they affect the validity of petitioner's claim for CARP exemption. In addition, there were also inconsistencies in the documents submitted before the DAR. The findings of the CA on this matter are on point, thus:

Moreover, the Court noted that some of the Certifications issued to respondent did not cover all of the five (5) subject parcels of land thus: (1) the MARO Certification pertained only to four (4) titles, namely, TCT Nos. 90593, 44647, 44636 and 44646, which have not been placed under the coverage of Operation Land Transfer (OLT) – PD 27 and/or issued Certificates of Land Transfer and Emancipation Patent and did not include TCT No. 44634; (2) the Certificate of Eligibility for Reclassification of Agricultural Lands issued by the DA covered only TCT Nos. 44636, 44646 and 90593 and failed to include TCT Nos. 44634 and 44647; (3) NIA only certified that TCT Nos. 44636, 44646 and

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¹⁷ Id.

¹⁸ Supra note 15.

¹⁹ Id. at 365.

90593 are not irrigable lands nor covered by irrigation project with funding commitment without mentioning TCT No. 44634; and (4) the DENR Certification dated October 25, 2022 pertained only to TCT Nos. 44636, 44646, 44647 and 90593, excluding TCT No. 44634, as not within any protected area.²⁰

Needless to state, these discrepancies and/or inconsistencies further cloud the validity of petitioner's claim that the subject parcels of land qualify for CARP exemption. Accordingly, petitioner's present petition should be dismissed.

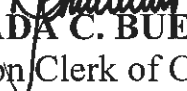
With the dismissal of the instant petition, this Court no longer deems it necessary to belabor on the issue of forum shopping.

All told, the CA committed no reversible error when it dismissed the petition on the ground of petitioner's failure to submit the complete documentary requirements set forth in DAR AO No. 4, Series of 2003.

WHEREFORE, in view of the foregoing premises, the instant petition is **DISMISSED** for lack of merit. The assailed Court of Appeals Decision dated July 13, 2011 and Resolution dated November 17, 2011 in CA-G.R. SP No. 113920, are **AFFIRMED in toto**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court Nov 21 11

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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²⁰ Rollo, p. 110.



MRREYES & ASSOCIATES
Counsel for Petitioner
5/F, One Corporate Plaza
845 Arnaiz Avenue, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. SP No. 113920)

BIHAG FETIZANAN GANDIA
& ASSOCIATES
Counsel for Respondents
50 A. Mabini Street, Ph-2A,
Ciudad Real, San Jose Del Monte
3023 Bulacan

DEPARTMENT OF AGRARIAN
REFORM
Elliptical Road, Diliman
1101 Quezon City
(DARCO Order No. EX-0604-115,
Series of 2006)
(DARCO Order No. EX [MR]-1004
-100, Series of 2010)

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