SECOND DIVISION

[G.R. No. 204232, October 16, 2019]

THE LOCAL GOVERNMENT OF STA. CRUZ, DAVAO DEL SUR, AS REPRESENTED BY ITS MUNICIPAL MAYOR, ATTY. JOEL RAY L. LOPEZ, PETITIONER, V. PROVINCIAL OFFICE OF THE. DEPARTMENT OF AGRARIAN REFORM, DIGOS CITY, DAVAO DEL SUR, RESPONDENT.

D E C I S I O N

REYES, J. JR., J.:

Directly filed before this Court is a Petition for Injunction with Application for Permanent Restraining Order[1] by the Local Government Unit of Sta. Cruz, Davao del Sur (LGU-Sta. Cruz), as represented by its Municipal Mayor, Atty. Joel Ray L. Lopez (petitioner) against the Provincial Office of the Department of Agrarian Reform, Digos City, Davao del Sur (respondent) to prevent the latter from subjecting the Tan Kim Kee Estate under the coverage of the Comprehensive Agrarian Reform Program (CARP) under Republic Act No. 6657 or the Comprehensive Agrarian Reform Law (CARL).

The Relevant Antecedents

The Tan Kim Kee Estate, comprising more or less 220 hectares, was designated as an industrial zone by virtue of the Municipal Comprehensive Development Plan/Land Use Plan and Zoning Ordinances (MCDP/LUP and ZOs) CY 1991-2000. The latter was subsequently approved by the Municipal Development Council (MDC), adopted by the *Sangguniang Bayan ng* Sta. Cruz, the *Sangguninang Panlalawigan*, the Regional Development Council, and the Inter-Agency Committee on Town Planning and Review.[2]

Said classification was carried on in the MCDP/LUP and ZOs CY 2000-2012. It was likewise approved through a public hearing and MDC Resolution, adopted by the *Sangguniang Bayan* through a Resolution and approved by the *Sangguniang Panlalawigan*.[3]

In classifying the Tan Kim Kee Estate as an industrial zone, LGU-Sta. Cruz envisioned it to support its agro-industrial program, making said area as an export processing zone.[4]

It appears that in 1994, Braulo Lim, *et al.*, landowners of the Tan Kim Kee Estate, filed an application for conversion of the Estate into commercial/industrial uses. The application was granted with the condition that the Estate be developed within the period of five years. The period was later on extended upon application of Braulo Lim, *et al*.[5]

Before the lapse of the prescribed period, Braulo Lim, *et al.* filed an application for the exclusion of the Estate from the coverage of CARP on the ground that the land was actually, exclusively, and directly used for cattle raising.[6]

In 2012, however, the Department of Agrarian Reform (DAR) subjected the Tan Kim Kee Estate under the coverage of the CARP.[7]

In an Order[8] dated January 3, 2013, the DAR denied the application for exclusion.

Seeking recourse from this Court *via* this Petition, petitioner contends that by putting said Estate into the coverage of CARP would slay the economic development strategy that is knitted in the approved town plans, affecting the progress and development not only for the Municipality, but for the province and the region as well.[9] Hence, it Is but proper that an injunction be issued against the respondent.

In its Supplemental Petition,[10] petitioner adds that irreparable damage on its part, as well as the investors that already expressed interest in developing the Tagabuli Bay will ensue and that the MCDP/LUP and ZOs will be prejudiced by said agrarian reform coverage of the area in consideration.

In its Comment[11] the respondent maintained that the Tan Kim Kee Estate was validly put under the CARP coverage for the landowners' failure to comply with the conversion plan under DAR guidelines. The DAR averred that the Tan Kim Kee landowners initially filed their application for conversion from agricultural land to industrial use. However, for a period of five years, they failed to implement the conversion plan. An extension of time within which to comply with the plan was granted by the DAR; despite so, the landowners still failed to comply therewith. Such failure to undertake the conversion activity within the period given by the DAR is in violation of the conditions imposed by relevant laws. Thus, the Tan Kim Kee Estate remains to be an agricultural land under Section 49 of the DAR Administrative Order No. 1, Series of 2002, which may be placed under the CARP.[12] As such, respondent maintains that the application for the issuance of an injunction should be denied.

In its Reply,[13] petitioner insists that its act of reclassifying the Tan Kim Kee Estate as an industrial zone is well within the autonomy provided by the Local Government Code and the Constitution.

Hence, this Petition.

The Issue

Essentially, the issue in this case is whether or not the reclassification of the Tan Kim Kee Estate as an industrial land removes it from the coverage of the CARL.

The Court's Ruling

Initially, it must be highlighted that the Notices of Coverage issued by the DAR basically placed the Tan Kim Kee Estate under the coverage of the CARP. Said notices notify the landowners that their respective properties shall be placed under the CARP; that they are entitled to exercise their retention right; and that a public hearing shall be conducted where they and the representatives of the concerned sectors of society may attend to discuss the results of the field investigation, the

land valuation and other pertinent matters.[14] Thus, at this point, no acquisition was yet implemented.

The Court now resolves.

Petitioner directly resorted to this Court in applying for the issuance of an injunctive writ.

Preliminarily, the CARL provides that the remedy of *certiorari* is available to dispute any decision of the DAR on any agrarian matter pertaining to the application, implementation, enforcement or interpretation of the law:

> SEC. 54. *Certiorari.* — Any decision, order, award or ruling of the DAR on any agrarian dispute or on any matter pertaining to the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform may be brought to the Court of Appeals by *certiorari* except as otherwise provided in this Act within fifteen (15) days from the receipt of a copy thereof.
>
> The findings of fact of the DAR shall be final and conclusive if based on substantial evidence.

However, the CARL expressly states that the a petition for *certiorari* must be filed with the Court of Appeals (CA), and not directly before this Court.

Nevertheless, whether injunction is available as a remedy in assailing the propriety of the implementation of the CARL is likewise explicitly provided under Section 68 thereof, to wit:

> SEC. 68. *Immunity of Government Agencies from Undue Interference.* — No injunction, restraining order, prohibition or mandamus shall be issued by the *lower courts* against the Department of Agrarian Reform (DAR), the Department of Agriculture (DA), the Department of Environment and Natural Resources (DENR), and the Department of Justice (DOJ) in their implementation of the program. (Italics supplied)

With the exclusion of the lower courts, this Court and the CA has concurrent jurisdiction to issue an injunctive writ as against the Department of Agriculture in the implementation of the CARL. However, such concurrence does not give the petitioner unrestricted freedom of choice of court forum consistent with the principle of hierarchy of courts.[15]

In the case of *Gios-Samar, Inc. v. Department of Transportation and Communications*,[16] the Court reminded that said doctrine is not a mere policy, but a constitutional filtering mechanism designed to enable the Court to focus on more fundamental and essential tasks assigned to it by the Constitution.

Said principle, however, is subject to exceptions:

> (1) When there are genuine issues of constitutionality that must be addressed at the most immediate time;
> (2) When the issues involved are of transcendental importance;
> (3) Cases of first impression;
> (4) The constitutional issues raised are better decided by the

Court;

(5) Exigency in certain situations;

(6) The filed petition reviews the act of a constitutional organ;

(7) When petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law that could free them from the injurious effects of respondents' acts in violation of their right to freedom of expression; and

(8) The petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy."[17]

However, as clarified in the *Gios-Samar* case, the determinative factor in allowing the application of one of the aforementioned exceptions is the **nature** of the question raised by the parties in those "exceptions" that enabled the Court to allow such direct resort.[18]

In this case, petitioner merely speculates in its Petition that the benefits of classifying the Tan Kim Kee Estate as an industrial zone far outweighs the benefits of the implementation of the CARL because in previous experiences, the CARP beneficiaries were not able to develop the agricultural lands awarded to them. However, such conjecture does not constitute any of the aforementioned exceptions to the general rule. Thus, the supremacy of the doctrine of hierarchy of courts prevails.

Note too that the Petition failed to state a cause of action considering the insufficiency of the allegations in the pleading.[19] It must be highlighted that petitioner is *not* the registered owner of the Tan Kim Kee Estate.

Section 2, Rule 3 of the Rules of Court is explicit in stating that every action must be prosecuted or defended in the name of the real party-in-interest, a party who stands to be benefited or injured by the judgment in the suit. On this note, real interest must be one which is present and substantial, as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest.[20]

Petitioner's perceived and anticipated benefit from the development of the Tan Kim Kee Estate constitutes a mere expectancy. As aforementioned, the same does not suffice to consider it as a real party-in-interest.

The Court stresses that procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons.[21]

Considering the procedural infirmities plaguing the instant Petition, the Court has no choice but to deny the same in the absence of any manifestation that the ends of substantive justice would be subserved thereby.

WHEREFORE, premises considered, the Petition is **DENIED**.

SO ORDERED.

Carpio (Chairperson), Lazaro-Javier, and *Zalameda, JJ*., concur.
Caguioa, J., see separate concurring opinion.

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[1] *Rollo*, pp. 3-12.

[2] Id. at 6.

[3] Id.

[4] Id. at 7.

[5] Id. at 125-126.

[6] Id. at 126.

[7] Id. at 112-113.

[8] Id. at 123-136.

[9] Id. at 8.

[10] Id. at 101-104.

[11] Id. at 111-118.

[12] Id. at 112-114.

[13] Id. at 139-146.

[14] *Roxas & Co., Inc. v. Court of Appeals*, 378 Phil. 727, 771 (1999).

[15] *United Claimants Association of NEA (UNICAN) v. National Electrification Administration*, 680 Phil. 506, 514 (2012).

[16] G.R. No. 217158, March 12, 2019.

[17] Id.

[18] Id.

[19] *Zuñiga-Santos v. Santos-Gran,* 745 Phil. 171, 177 (2014).

[20] *Gemina v. Eugenio*, 797 Phil. 763, 770-771 (2016).

[21] *Malixi v. Baltazar*, G.R. No. 208224, November 22, 2017, 846 SCRA 244, 271, citing *Lazaro v. Court of Appeals*, 386 Phil. 412, 417 (2000).

SEPARATE CONCURRING OPINION