

FIRST DIVISION

[G.R. No. 169657, September 12, 2008]

**LT. (RET.) EDUARDO DE OCAMPO, PETITIONER, VS. PO3
EUZUETO R. REY, RESPONDENT.**

R E S O L U T I O N

CORONA, J.:

This is a petition for review on certiorari^[1] of the January 13, 2005 decision^[2] and September 2, 2005 amended decision^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 81097.

The case involves Lots 13 and 21, Block 18 of the Villamor Airbase Housing Project (VAHP) and the structures/houses built thereon identified as Tag Nos. 95-3-0094 and 95-3-0095, respectively.^[4]

Rodolfo Ambata was the registered owner of the houses, with petitioner Eduardo de Ocampo and respondent Euzueto R. Rey, respectively, as occupants/lessees thereof.^[5] In 1995, Ambata was reported in a census to be an absentee house owner (AHO).^[6] Under the VAHP policy guidelines, AHOs were disqualified from owning lots within the VAHP.^[7] But, the occupants or lessees of such houses could be awarded the lots.^[8] Thus, on October 16, 1996, the Awards and Arbitration Committee (AAC) of the VAHP made this recommendation:

The AAC recommended [the] disqualification of the owner, Rodolfo Ambata, censused as AHO. He will dispose his property to the renters - being qualified for award [with] the following [areas] to [be distributed to] the renters:

- 1) Edilberto De - 50 square meters
Raya
- 2) [Respondent] - 50 square meters
- 3) Ruel Falceso - 50 square meters
- 4) Eduardo de - 50 square meters
Ocampo
- 5) Abad, Victor - 72 square meters

The price must be agreeable to all parties - if not [the Project Management Office]^[9] will take charge of the disposition of the lot. The owner will be read/[notified] of his disqualification and will be given 30 days for action.

The potential awardee will be subjected [to the] prequalification process.
^[10]

On January 27, 1999, Ambata executed a special power of attorney (SPA) in favor of Gliceria B. Moore^[11] authorizing the latter "to sign, execute, deliver and endorse a deed of absolute sale or other pertinent documents of conveyance" for the transfer of his interest over the real property located at P 35-12, 9th Street, Villamor Airbase, Pasay City (the house with Tag No. 95-3-0094.)

On June 18, 1999, the AAC recommendation was forwarded to the National Housing Authority (NHA) for affirmation.^[12]

On April 8, 2000, Moore, by virtue of the SPA, sold to respondent the aforementioned residential house.^[13] On October 6, 2000, petitioner filed a petition in the NHA to change his status from "rent-free occupant" to "census[ed] house owner-occupant" and further requested that the lot on which his house stood be awarded to him.^[14] Under the VAHP guidelines, a house owner had priority over lessees in the award of the lot where the house was situated.^[15]

In a letter dated June 18, 2002, the NHA^[16] confirmed AAC's recommendation disqualifying Ambata from the award of the lots considering that he was an AHO. It granted petitioner's request for a change of his status from rent-free occupant to residing house owner insofar as the house with Tag No. 95-3-0094 was concerned. Accordingly, the AAC's recommendation on the lot allocations was modified as follows:

- a) With respect to Lot 13, Block 18, [petitioner] is awarded one hundred fifty (150) square meters portion thereof with its frontage to Road Lot 17; while the remaining fifty (50) square meters thereof; and
- b) Lot 21, also of Block 18, to be divided equally by and among de Raya, Falceso, [respondent] and Abad, subject however to right of way among them and provided that rights and interest over the premises they are respectively occupying are waived or transferred in their favor by [petitioner], the new owner of the said houses.^[17]

The lot allocation of petitioner was increased from 50 sq. m. to 150 sq. m. while respondent's allocation was reduced from 50 sq. m. to 30 sq. m.^[18]

On July 19, 2002, respondent sought reconsideration of the NHA award. He argued that petitioner was not a qualified beneficiary because he was an awardee of a lot in another housing project and asserted that he (respondent) desired to exercise his right of pre-emption. It was denied by the NHA in a letter dated November 12, 2002.^[19]

On November 20, 2002, respondent appealed to the Office of the President (OP).^[20] In a resolution dated June 10, 2003, the OP dismissed the appeal and affirmed the findings and recommendation of the NHA.^[21] Reconsideration was denied in an order dated November 27, 2003.^[22]

Aggrieved anew, respondent filed in the CA a petition for review of the June 10,

2003 resolution and November 27, 2003 order of the OP, docketed as CA-G.R. SP No. 81097.^[23] In a decision dated January 13, 2005, the CA granted the petition and set aside the assailed resolution and order of the OP. It held that the lot allocations recommended by the AAC should not have been modified. It found that respondent was not informed of the sale to petitioner so the former was not able to exercise his right of pre-emption under par. 4.21 of the VAHP policy guidelines.^[24] Thus, it remanded the case to the NHA and directed it to award the lots in accordance with the allocations recommended by the AAC.

Both the NHA and petitioner filed motions for reconsideration. The CA issued an amended decision on September 2, 2005 wherein it denied the two motions. It ruled that under par. 11.2 of the VAHP policy guidelines, the recommendations of the AAC were appealable to the Executive Committee *en banc* specifically created for the VAHP. Even if the general manager of the NHA reviewed the findings and recommendations of the AAC, his or her decisions were not binding on the Executive Committee unless the latter approved them.^[25] It also clarified that the remand involved only the allocation of the lots in favor of respondent considering that the other parties chose not to appeal the NHA decision.^[26]

Hence this petition with prayer for writ of preliminary injunction of temporary restraining order to prevent the CA from enforcing its decision.

The core issue for our resolution is whether the NHA could modify the recommendation of the AAC.

The petition lacks merit.

Par. 11.2 of the VAHP policy guidelines states that:

The decisions of the AAC shall be appealable to the Executive Committee *en banc* whose decision shall be final and executory.^[27]

Petitioner avers that the Executive Committee did not appear to function and that, in practice, it was the NHA that reviewed the AAC's recommendations.^[28] We disagree.

The VAHP was not the project of the NHA alone. A memorandum of agreement dated January 23, 1995 was jointly executed by the Bases Conversion Development Authority, Department of National Defense, city government of Pasay and the NHA for the implementation of the project.^[29] They agreed on the creation of an Executive Committee composed of their respective representatives.^[30] Hence, the Executive Committee was not equivalent to the NHA. It was an inter-agency committee.

Petitioner's argument that it was the NHA which in practice reviewed AAC's recommendations lacks merit. Practice cannot take precedence over clear policies and rules agreed upon by the parties themselves. Otherwise, the rule of law will be meaningless.

Moreover, since petitioner was claiming a right under the VAHP, he was bound to comply with the policy guidelines governing the acquisition, enforcement and