

## FIRST DIVISION

[ G.R. NO. 165547, January 24, 2007 ]

**DEPARTMENT OF AGRARIAN REFORM, AS REPRESENTED BY ITS SECRETARY, RENE C. VILLA, PETITIONER, VS. SARANGANI AGRICULTURALCO., INC., ACIL CORPORATION, NICASIO ALCANTARA AND TOMAS ALCANTARA, RESPONDENTS.**

### DECISION

**AZCUNA, J.:**

This is a petition for review<sup>[1]</sup> by the Department of Agrarian Reform (DAR) seeking the reversal of the Decision and Resolution, dated July 19, 2004 and September 24, 2004, respectively, of the Court of Appeals in CA-G.R. SP No. 79899, entitled "Sarangani Agricultural Co, Inc., et al. v. Hon. Manuel Domingo, et al."

Respondents are the owners of the lands in question which have been reclassified from agricultural into non-agricultural uses by virtue of a municipal zoning ordinance, and are included in the comprehensive land use plan of the Municipality of Alabel.

The antecedents are as follows:

The Province of Sarangani was created pursuant to Republic Act No. 7228 on March 16, 1992, composed of seven (7) municipalities, namely, Alabel, Glan, Maasin, Maitum, Malapatan, Malungon and Kiamba which were segregated from the Province of South Cotabato. Under said Act, the Municipality of Alabel was made the capital of the new province where the capitol building and all other national and provincial offices shall be established.<sup>[2]</sup>

On February 14, 1997, the Sangguniang Bayan of Alabel passed Resolution No. 97-08 or "Resolution Adopting and Endorsing the Ten-Year Municipal Comprehensive Development Plan (MCDP 1995-2005) of the Municipality of Alabel and Its Land Use Development Plan and Zoning Ordinance for Adoption and Approval of the Provincial Governor, Honorable Priscilla L. Chiongbian, Thru The Honorable Sangguniang Panlalawigan of Sarangani Province."

On January 30, 1998, pursuant to Municipal Zoning Ordinance No. 08, Series of 1997, and to accelerate the development and urbanization of Alabel, the Sangguniang Bayan of Alabel passed Resolution No. 98-03 reclassifying lots that were located within the built-up areas, based on the 1995-2005 Land Use Plan of the municipality, from agricultural to non-agricultural uses.<sup>[3]</sup>

On March 2, 1998, the Sangguniang Panlalawigan of Sarangani approved Resolution No. 98-018 or the "Resolution Adopting the Ten-Year Municipal Comprehensive Development Plan (MCDP 1995-2205) and the Land Use Development Plan and

Zoning Ordinance of the Municipality of Alabel, Sarangani Per Resolution No. 97-08 and Municipal Ordinance No. 97-08, S. of 1997 of the Sangguniang Bayan of Alabel.” A portion of the area involving 376.5424 hectares, however, was covered by the Comprehensive Agrarian Reform Law (R.A. No. 6657) commercial farms deferment scheme.<sup>[4]</sup>

The Zoning Certification issued by the office of the Municipal Planning and Development Council (MPDC) showed that respondents’ properties located at Barangay Maribulan, Alabel were among those reclassified from agricultural and pasture land to residential, commercial institutional, light industrial and open space in the 1995-2005 land use plan of Alabel. <sup>[5]</sup>

On July 2, 1998, respondent Sarangani Agricultural Company, Inc. (SACI) filed an application for land use conversion of the following parcels of land with an aggregate area of 1,005 hectares:

<b>Registered Owner</b>	<b>TCT No.</b>	<b>Lot No.</b>	<b>Area (Ha.)</b>	<b>Area Applied (Ha.)</b>
SACI	T-7207	1-C	52.4365	52.4365
SACI	T -48807 (T-4807)	2	181.3353	181.3353
SAC I	T -48808 (T-4808)	3	281.0874	281.0874
SACI	T -48809 (T-4809)	4	241.7880	241.7880
SAC I	T-48810 (T-4810)	5	40.6738	40.6738
SACI	T -48811 (T-4811)	6	137.0340	137.0340
SACI	T-48812 (T-4812)	7	12.3265	12.3265
Nicasio Alcantara	T-(10885) T-44538	10	20.9149	20.9149
SACI	T-9210	2	12.1425	12.1425
Tomas Alcantara	T-14359 (T-1185)	39	10.9390	10.9390
Nicasio Alcantara	Untitled	53	5.0672	5.0672
ACIL Corporation	T-(41758) (T-4150)	806	3.3115	3.3115
SACI	Untitled	807	6.7871	6.7871

Accompanying SACI’s application for conversion were the documents required under the Department of Agrarian Reform (DAR) Administrative Order No. 7, Series of 1997.<sup>[6]</sup>

Subsequently, a Site Inspection Report was prepared by the Housing and Land Use Regulatory Board (HLURB) Regional Office (Region XI) and was indorsed to DAR Secretary Horacio R. Morales, Jr.

On March 16, 1999, the Provincial Agrarian Reform Council (PARC) and the Provincial Land Use Technical Committee (PLUTC)<sup>[7]</sup> conducted an inspection of the subject properties. In a Memorandum dated July 9, 1999, the PLUTC recommended that SACI's application be made subject to the following conditions: 1) presentation by SACI of its development plan; 2) submission of the lacking documents; 3) re-survey and segregation of the property according to use or project in coordination with the DAR Regional Office; and, 4) submission of the resulting map indicating the technical description of the area per actual use/project attested by the Regional Director.

Meanwhile, on March 22, 1999, members of the Sarangani Agrarian Reform Beneficiaries Association, Inc. (SARBAI) sent a letter-petition to the DAR Secretary opposing the application for land use conversion filed by SACI. SARBAI alleged that its members were merely forced to sign the waiver of rights, considering that the commercial farm deferment period ended on June 15, 1998. Later, an "Urgent Petition for the Denial of Land Use Conversion Application of Banana Commercial Farm of SACI" was filed by SARBAI and was received by the PARC Secretariat on July 14, 1999.

In the March 30, 2000 deliberation of the PLUTC, the committee agreed to recommend the disapproval of 158.0672 hectares that had been planted with bananas and coconuts. The committee noted that said portion of the property was still viable for agriculture, irrigated, with Notice of Coverage, and under protest or with opposition from SARBAI. It likewise recommended that the decision as to the rest of the area applied for conversion shall be deferred subject to the submission of the following within a period of thirty (30) days: 1) a five-year comprehensive development plan; 2) a survey plan signed by the Regional Technical Director of Land Management Service and noted by the DAR Regional Director (Region XI); 3) SACI's proof of undertaking, which will contain the package of benefits it intends to give to the affected farm workers except those working in the banana plantation; 4) the concurrence of all the workers who would be affected by the proposed conversion, which concurrence should be noted by the Municipal Agrarian Reform Office (MARO) and acknowledged by a notary public.

On its part, SACI contended that 1) its projects were aligned to address the current and anticipated commercial and residential needs of Sarangani province, and the removal of any portion of its property included in its comprehensive development plan will affect the viability of the plan; 2) the banana plantations will be transformed into a socialized housing subdivision which will be made available to the displaced workers and the other low income earners of Alabel; 3) the company will construct and install power generation facilities in the entire area; 4) at the time the application for land use conversion was filed, no Notice of Coverage was ever issued by DAR, and the subsequent issuance of such notice was highly irregular because the same may be issued only after the final resolution of the application for land use conversion; and 5) the previous Order of Deferment cannot be a legal barrier to the filing of an application for land use conversion.

On November 9, 2000, DAR Secretary Horacio R. Morales, Jr. denied SACI's application for land use conversion. The pertinent portion of the Order reads:

... The proponent also submitted another DA certification stating that 12 parcels of land (Lot Nos. 2, 3, 4, 5, 6, 7, 12, 807, 53, 10, 39 and 806)

with an area of 816.7401 hectares, located at Maribulan, Alabel, Sarangani are part of expansion for urbanizing areas. Though discussed on several meetings, no decision was made on the application since the applicant was not able to comply with the documentary requirements and clarify the issues raised by the Committee.

[I]n [the] 30 March 2000 Meeting of the PLUTC, the Committee deliberated again [on] the subject application and agreed to recommend the disapproval of 158.0672 hectares area planted to banana[s] and coconuts. The Committee noted that said portion of the property is still viable for agriculture, irrigated, with Notice of Coverage and with protest or opposition from SARBAI. The Committee also agreed to request the DAR to determine the metes and bounds of the area planted to banana[s] and coconuts vis-à-vis areas devoted to other enterprises. Relative to the rest of the area applied for conversion, the committee deferred its decision subject to the submission of a 5-year comprehensive development plan, showing among others, the schedule of development by phase, the specific lots involved and the corresponding proposed use.

...The Committee acceded to the request of SACI and deferred its recommendation to deny conversion of that portion of the property planted to banana[s] and coconut[s] pending submission of a manifesto or SACI's proof of undertaking that it will compensate farm workers affected by showing, among others, the schedule of development by phase, the specific lots involved and the corresponding proposed use [of] the conversion, concurred by the workers/oppositors, noted by the MARO and duly notarized. The Committee also requested SACI to submit details of the pomelo farm in Malandag being offered as a replacement farm for the relocation of the farm workers. SACI was given a 30-day period to submit these documents.

SACI, however, failed to submit the oath of undertaking to pay disturbance compensation to affected workers being required by the Committee and as provided under DAR Administrative Order No. 01, Series of 1999. Instead, SACI submitted an undertaking executed by the affected workers stating that they are amenable to the package of benefits offered by the company. Nevertheless, those who executed the deed of undertaking did not represent the majority of the farm workers. Out of the 95 regular banana workers only 45 and eight (8) supervisors including four (4) workers who were not included in the workers' master list of SACI executed a deed of undertaking. As regards the 105-hectare pomelo farm, SACI failed to affirm whether they are going to pursue their offer. Likewise, DAR Region XI reported that coverage of the same area is on-going, and a different group of potential beneficiaries have already been identified. Therefore, it could no longer be offered as a relocation site. Foregoing considered, the Committee, during its 18 August 2000 Meeting, sustained its earlier recommendation to deny the conversion of that portion of the property planted to bananas and coconuts.

With regard to the rest. of the area, the Committee deferred its decision subject to the delineation by the SACI of the total area that they can develop within the allowed five-year period. Likewise, the PLUTC is

requesting the SACI to submit a revised five-year development plan that will show the schedule of development by phase, by year, and the proposed use for each parcel of land.

WHEREFORE, premises considered, it is hereby ordered that:

1. The application filed by the Sarangani Agricultural Company, Inc. (SACI), represented by Cynthia Adao-Prat, involving parcels of land planted to banana[s] and coconut[s] and with Notice of Coverage identified as TCT Nos. T-10885 (20.9149 ha.), T-14359 (10.9390 ha.), T-41718 (3.3115 ha.), OCT No. V-19574 or T-9210 (12.1425 ha.), Lot 807 (6.7871 ha.) and portion of P-V-125 (95.00 ha.) and [an] area covered by Lot 53 (5.0672 ha.) with an aggregate area of 154.622 [actually it is 154.1622] hectares is hereby DENIED. The Dar Regional Office of Region XI is hereby instructed to determine the metes and bounds of the area subject for distribution to the qualified FWBs.
2. The resolution of the application involving the rest of the area applied for conversion is DEFERRED pending submission by the applicant of a revised five-year development plan indicating the specific use of each parcel of land.

SO ORDERED.<sup>[8]</sup>

Petitioner filed a Motion for Reconsideration of the above decision but the same was denied by the Court of Appeals in a Resolution, dated September 24, 2004.

Their Motion for Reconsideration of the above Order having been denied, respondents appealed to the Office of the President (O.P. Case No. 02-1-47.4, alleging that the Secretary of Agrarian Reform committed serious errors in 1) finding that a notice of coverage had been issued for the banana area of the landholdings; 2) giving undue significance to the protest or opposition by SARBAI; 3) requiring a deed of undertaking even after applicant-appellant's written commitment to pay whatever lawful obligation SACI may incur as a consequence of the conversion; 4) holding that farms with commercial farm deferment cannot be applied for conversion; 5) ruling that irrigated lands suitable for agriculture were disqualified for conversion; and 6) ruling that applicant-appellant had not submitted a five-year development plan.<sup>[9]</sup>

In a Decision dated June 30, 2003, the Office of the President through Presidential Assistant Manuel C. Domingo dismissed the appeal and affirmed in toto the challenged DAR Orders. Respondents' motion for reconsideration was denied,<sup>[10]</sup> so they filed with the Court of Appeals a petition for review raising substantially the same issues.

On July 19, 2004, the Court of Appeals rendered a Decision granting the petition, the dispositive portion of which reads:

WHEREFORE, premises considered, the present petition is hereby GIVEN DUE COURSE. Consequently, the assailed Decision and Order dated June 30, 2003 and September 12, 2003, respectively, of the Office