

## THIRD DIVISION

[ G.R. NO. 169008, August 14, 2007 ]

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. RAYMUNDA MARTINEZ, RESPONDENT.**

### DECISION

**NACHURA, J.:**

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the September 28, 2004 Resolution<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 83276 and the July 15, 2005 resolution<sup>[2]</sup> denying the motion for reconsideration thereof.

Undisputed are the following antecedent facts:

After compulsory acquisition by the Department of Agrarian Reform (DAR), on November 16, 1993, of respondent Martinez's 62.5369-hectare land in *Barangay* Agpudlos, San Andres, Romblon, pursuant to Republic Act No. 6657, or the Comprehensive Agrarian Reform Law of 1988 (CARL), petitioner Land Bank of the Philippines (LBP) offered P1,955,485.60 as just compensation.<sup>[3]</sup> Convinced that the proffered amount was unjust and confiscatory, respondent rejected it. Thus, the Department of Agrarian Reform Adjudication Board (DARAB), through its Provincial Agrarian Reform Adjudicator (PARAD) conducted summary administrative proceedings for the preliminary determination of just compensation in accordance with Section 16 (d) of the CARL.

On September 4, 2002, PARAD Virgilio M. Sorita, finding some marked inconsistencies in the figures and factors made as bases by LBP in its computation, rendered judgment as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered:

Ordering the Land Bank of the Philippines to pay landowner-protestant RAYMUNDA MARTINEZ for her property covered and embraced by TCT No. T-712 with an area of 62.5369 hectares, more or less, which the Department of Agrarian Reform intends to acquire, the total amount of TWELVE MILLION ONE HUNDRED SEVENTY NINE THOUSAND FOUR HUNDRED NINETY TWO and 50/100 Pesos (Php12,179,492.50), in the manner provided for by law.

SO ORDERED.<sup>[4]</sup>

A petition for the fixing of just compensation<sup>[5]</sup> docketed as Agrarian Case No. 696 was then filed by LBP's counsel before the Special Agrarian Court (SAC), the Regional Trial Court of Odiongan, Romblon, Branch 82. After filing her answer to the

said petition,<sup>[6]</sup> respondent, contending that the orders, rulings and decisions of the DARAB become final after the lapse of 15 days from their receipt, moved for the dismissal of the petition for being filed out of time.<sup>[7]</sup> Petitioner opposed the motion.<sup>[8]</sup>

Meanwhile, respondent, still asserting the finality of PARAD Sorita's decision, filed before the Office of the PARAD a motion for the issuance of a writ of execution, which was eventually granted on November 11, 2003.<sup>[9]</sup> Ascertaining that the petition before the SAC was filed by LBP 26 days after it received a copy of PARAD Sorita's decision, the Office of the PARAD denied LBP's motion for reconsideration and ordered the issuance of a writ of execution on February 23, 2004.<sup>[10]</sup> Aggrieved by these developments, LBP, on March 12, 2004, moved to quash the said February 23, 2004 PARAD resolution.<sup>[11]</sup>

On April 6, 2004, even as the motion to quash was yet unresolved, LBP instituted a petition for *certiorari*<sup>[12]</sup> before the CA, which was docketed as CA-G.R. SP No. 83276, assailing both the November 11, 2003 and the February 23, 2004 PARAD resolutions. LBP primarily contended that the Office of the PARAD gravely abused its discretion when it issued the writ of execution despite the pendency with the SAC of a petition for the fixing of just compensation.

The CA, finding LBP guilty of forum-shopping for not disclosing the pendency of the *Motion to Quash* dated March 12, 2004, dismissed the petition on September 28, 2004,<sup>[13]</sup> thus:

ACCORDINGLY, the present petition for certiorari is DISMISSED outright.

Consequently, in view of the dismissal of the above-entitled case, we are no longer in a position to act on the private respondent's motion for execution pending appeal.

Further, this Court, mindful that under Sec. 5, Rule 7, of the 1997 Rules of Civil Procedure, willful and deliberate forum-shopping constitutes direct contempt of court and cause for administrative sanctions, which may both be resolved and imposed in the same case where the forum shopping is found, WARNS the counsel of record of the petitioner that a repetition of a similar act of submitting a false certification shall be dealt with most severely.

SO ORDERED.<sup>[14]</sup>

Not persuaded by LBP's motion for reconsideration, the appellate court denied the same on July 15, 2005.<sup>[15]</sup> Thus, LBP, through its legal department, elevated the case to this Court on September 9, 2005 via a petition for review on *certiorari*<sup>[16]</sup> under Rule 45, contending, among others, that it did not commit deliberate forum shopping for what it filed with the Office of the PARAD was a motion to quash, which is not an initiatory pleading, and that the decision of the PARAD cannot be executed due to the pending petition for fixing of just compensation with the SAC.

On September 14, 2005, we issued a temporary restraining order (TRO) restraining

the appellate court and the DAR adjudicators from implementing the November 11, 2003 and the February 23, 2004 resolutions. [17]

For her part, respondent contends that petitioner committed forum-shopping when it filed a *certiorari* petition without first awaiting the resolution by the Office of the PARAD of the motion to quash; [18] and that petitioner has lost its standing to sue considering that it is being represented by its lawyers and not the Office of the Government Corporate Counsel (OGCC). [19]

On the basis of these antecedents, the Court shall now resolve *seriatim* the following issues: (1) whether or not petitioner may file the instant appeal solely through its legal department; (2) whether or not petitioner has committed forum shopping; and (3) whether or not the PARAD, in this case, gravely abused its discretion when it issued a writ of execution despite the pendency of LBP's petition for fixing of just compensation with the SAC.

After meticulously reviewing the records and considering the arguments of the parties, the Court finds the appeal devoid of merit.

In *Land Bank of the Philippines v. Teresita Panlilio-Luciano*, [20] the Court explained in one of its resolutions that nothing in the LBP charter expressly authorizes the LBP Legal Department to appear in behalf of LBP in any court or quasi-judicial proceeding and that the Administrative Code of 1987 mandates the OGCC, not the LBP Legal Department, to act as the principal law office of the LBP, thus:

There is nothing in the LBP charter that expressly authorizes the said Legal Department to appear in behalf of LBP in any court or quasi-judicial proceeding. Attys. Beramo and Berbaño insist that the creation of the LBP Legal Department "necessarily entails conferment of the power to represent [LBP] in any and all cases" and consequently confers the power to "exercise such incidental powers or perform such acts as are necessary to make the conferred power effective." At first blush, this is not an unreasonable position; yet, *we are precluded from adopting the same, owing to the explicit proviso in Section 10, Book IV, Title III, Chapter 3 of the Administrative Code of 1987*, which reads:

Section 10. *Office of the Government Corporate Counsel.* - The Office of the Government Corporate Counsel (OGCC) shall act as the **principal law office** of all government-owned or controlled corporations, their subsidiaries, other corporate offsprings and government acquired asset corporations and shall **exercise control and supervision over all legal departments or divisions** maintained separately and such powers and functions as are now or may hereafter be provided by law. In the exercise of such control and supervision, the Government Corporate Counsel shall promulgate rules and regulations to effectively implement the objectives of the Office.

The OGCC is authorized to receive the attorney's fees adjudged in favor of their client government-owned or controlled corporations, their subsidiaries/other corporate

offsprings and government acquired asset corporations. These attorney's fees shall accrue to a Special fund of the OGCC, and shall be deposited in an authorized government depository as trust liability and shall be made available for expenditure without the need for a Cash Disbursement Ceiling, for purposes of upgrading facilities and equipment, granting of employee's incentive pay and other benefits, and defraying such other incentive expenses not provided for in the General Appropriations Act as may be determined by the Government Corporate Counsel. (Emphasis supplied.)

*The above provision mandates the OGCC, and not the LBP Legal Department, as the principal law office of the LBP. Moreover, it establishes the proper hierarchical order in that the LBP Legal Department remains under the control and supervision of the OGCC. Indeed, if we were to accede to the position of Attys. Beramo and Berbaño that the mere constitution of an LBP Legal Department ipso facto confers upon it the capacity to litigate cases in behalf of LBP in any legal proceeding, then the role of the OGCC as the principal law office of all GOCCs would be rendered nugatory in all GOCCs with Legal Departments.*

At the same time, the existence of the OGCC does not render the LBP Legal Department a superfluity. We do not doubt that the LBP Legal Department carries out vital legal services to LBP. However, the performance of such functions cannot deprive the OGCC's role as overseer of the LBP Legal Department and its mandate of exercising control and supervision over all GOCC legal departments. *For the purpose of filing petitions and making submissions before this Court, such control and supervision imply express participation by the OGCC as principal legal counsel of LBP.* Our succeeding disposition of the OGCC's pending Manifestation would delve in detail the extent of the OGCC's required participation. But suffice for now, Attys. Beramo and Berbaño are in error when they assert that the OGCC's participation in the present petition is not required at all.

It should also be noted that the aforementioned Section 10, Book IV, Title III, Chapter 3 of the Administrative Code of 1987 authorizes the OGCC to receive the attorney's fees adjudged in favor of their client GOCCs, such fees accruing to a special fund of the OGCC. Evidently, the non-participation of the OGCC in litigations pursued by GOCCs would deprive the former of its due funding as authorized by law. Hence, this is another reason why we cannot sustain Attys. Beramo and Berbaño's position that the OGCC need not participate in litigations pursued by LBP.

It may strike as disruptive to the flow of a GOCC's daily grind to require the participation of the OGCC as its principal law office, or the exercise of control and supervision by the OGCC over the acts of the GOCC's legal departments. For reasons such as proximity and comfort, the GOCC may find it convenient to rely instead on its in-house legal departments, or more irregularly, on private practitioners. *Yet the statutory role of the OGCC as principal law office of GOCCs is one of long-standing, and we*