

SECOND DIVISION

[G.R. NO. 152640, June 15, 2006]

**DEPARTMENT OF AGRARIAN REFORM, REP. BY SECRETARY
HERNANI A. BRAGANZA, PETITIONER, VS. PHILIPPINE
COMMUNICATIONS SATELLITE CORP., RESPONDENT.**

DECISION

AZCUNA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court by the Department of Agrarian Reform (DAR) seeking the nullification of the Decision and Resolution, dated November 23, 2001 and March 7, 2002, respectively, of the Court of Appeals in CA-G.R. SP No. 57435, entitled "Philippine Communications Satellite Corporation (PHILCOMSAT) v. DAR."

The controversy involves a parcel of land owned by respondent PHILCOMSAT situated within the area which had been declared a security zone under Presidential Decree (P.D.) No. 1845, as amended by P.D. No. 1848, entitled "Declaring the Area within a Radius of Three Kilometers surrounding the Satellite Earth Station in Baras, Rizal, a Security Zone."

The facts of the case are as follows:

PHILCOMSAT is the owner of a parcel of land situated in Pinugay, Baras, Rizal, where its Philippine Space Communications Center (PSCC) is located. The PSCC, which principally consists of herein respondent's satellite earth station, serves as the communications gateway of the Philippines to more than two-thirds of the world. Incidentally, the property had been planted with fruit trees, rice and corn by farmers occupying the surrounding areas of the PSCC.

On April 30, 1982, P.D. No. 1845 was promulgated. This decree was amended on July 29, 1982 by P.D. No. 1848, Section 1 of which states:

Section 1. Declaration of Security Zone. - The entire area surrounding the satellite earth station in Sitio San Miguel, Barrio Pinugay, Municipality of Baras, Province of Rizal, Island of Luzon, within a radius of three kilometers, more or less, from the main satellite earth station, the metes and bounds of such area to be determined by the Minister of National Defense, is hereby declared a security zone. For this purpose, and in the interest of national security, ingress to and egress from the security zone as well as occupancy of portions thereof shall be controlled and regulated, without prejudice to the payments of just compensation to persons whose rights of ownership may be injuriously affected thereby x x x.

The three-kilometer security zone covers an area of 5,654 hectares, which includes the 700 hectares owned by PHILCOMSAT that is being subjected to the Comprehensive Agrarian Reform Program (CARP)^[1] of the government. Also included within this three-kilometer radius is the 1.5 kilometers radius from the antenna wherein local harmful Radio Frequency Interference resulting from ignition systems, motor starters, high voltage discharges, and the like, is captured and amplified which can hamper telecommunications services.^[2]

Pursuant to the decree, the Ministry of National Defense promulgated the *Revised Rules and Regulations to Implement P.D. No. 1845 dated 30 April 1982, as amended, Declaring the Philippine Earth Station (PES) Security Zone*. In view of this, the metes and bounds of PHILCOMSAT's satellite earth station in Baras, Rizal, were delineated.

In 1992, a Notice of Coverage was sent to PHILCOMSAT by petitioner DAR informing the former that the land in question shall be placed under CARP's compulsory acquisition scheme.

On January 28, 1994, PHILCOMSAT wrote to DAR seeking an exemption of the subject property from CARP coverage, insisting that the land will be utilized for the expansion of its operations, and for the following reasons:^[3]

- 1) The land is being used for national defense in accordance with Section 10 of Republic Act (R.A.) No. 6657 which provides:

"Section 10. Exemptions and Exclusions. -- Lands actually, directly and exclusively used and found necessary for parks, wildlife, forest reserves, reforestation, fish sanctuaries and breeding grounds, watersheds and mangroves, national defense x x x, shall be exempt from the coverage of this Act."

- 2) The company should be free from harmful Radio Frequency Interference (RFI) to maintain highest service reliability;

- 3) Compliance with the provisions of P.D. No. 1845, as amended by P.D.1848, stating the vitality of the PSCC in the security system within the purview of national defense; and,

- 4) The development of the area, in response to the Philippines' plan to launch its own national satellite and to address the massive telecommunications build-up in the Asia-Pacific Region.^[4]

Respondent's application for exemption from CARP coverage was evaluated by DAR. During the pendency of the application, then DAR Secretary Ernesto D. Garilao, in a letter dated March 21, 1994, suggested that respondent enter into a usufructuary agreement with the occupants of the subject property until such time that it will have to use the property for its planned expansion. The occupants, however, refused to enter into such an agreement.^[5]

Meanwhile, the Sangguniang Bayan of Tanay, Rizal, in its Resolution No. 65-94 that was endorsed to DAR, moved for the coverage of the 700-hectare PHILCOMSAT property within the security zone under CARP. The Provincial Agrarian Reform Officer

of Teresa, Rizal further opined that subjecting the surrounding agricultural area within the security zone under CARP will not be detrimental to the operations of PHILCOMSAT.^[6]

On May 25, 1998, an Order was issued by then Secretary Garilao rejecting PHILCOMSAT's application for exemption from CARP, citing three main reasons:

- 1) The occupants in the area can be considered as *bona fide* tenants of the registered owner before PHILCOMSAT acquired the same for its projected expansion of operations as they have been tilling said area for several years;
- 2) Said occupants had been identified by the Municipal Agrarian Reform Officer (MARO) as potential CARP beneficiaries when the land was placed under the compulsory acquisition scheme; and,
- 3) The term "security zone" is not embraced within the definition of lands used for national defense under Section 10 of R. A. No. 6657.^[7]

Its motion for reconsideration of the aforesaid Order having been denied, PHILCOMSAT filed a Petition for Review with the Court of Appeals.

Granting said petition, the Court of Appeals held:

WHEREFORE, premises considered, the instant petition is hereby GRANTED. The Order dated 25 May 1998 issued by respondent Department of Agrarian Reform as well as the Resolution dated 31 January 2000 denying petitioner's motion for reconsideration of the said Order are hereby NULLIFIED and SET ASIDE and a new one is entered, declaring the subject landholdings of petitioner situated at Pinugay, Baras, Rizal, exempted from the CARP coverage, considering that it was declared a security zone under P.D. [No.] 1845, as revised by P.D. [No.] 1848.

SO ORDERED.^[8]

A motion for reconsideration of the above decision was filed by DAR but the same was denied by the Court of Appeals in its Resolution, dated March 7, 2002.^[9]

Hence, this petition with the following assignment of errors:

I

THE HONORABLE COURT OF APPEALS ERRED WHEN IT DECLARED THAT R.A. NO. 6657 (COMPREHENSIVE AGRARIAN REFORM LAW OF 1988) AND P.D. NO. 1848, WHICH DECLARED THE SUBJECT LANDHOLDING AS A SECURITY ZONE, CANNOT, IN EFFECT, CO-EXIST WITH EACH OTHER;

II

THE HONORABLE COURT OF APPEALS ERRED WHEN IT APPLIED THE STATUTORY RULE *GENERALIA SPECIALIBUS NON DEROGANT*; AND,