529 Phil. 573

EN BANC

[G.R. NO. 163980, August 03, 2006]

HOLY SPIRIT HOMEOWNERS ASSOCIATION, INC. AND NESTORIO F. APOLINARIO, IN HIS PERSONAL CAPACITY AND AS PRESIDENT OF HOLY SPIRIT HOMEOWNERS ASSOCIATION, INC., PETITIONERS, VS. SECRETARY MICHAEL DEFENSOR, IN HIS CAPACITY AS CHAIRMAN OF THE HOUSING AND URBAN DEVELOPMENT COORDINATING COUNCIL (HUDCC), ATTY. EDGARDO PAMINTUAN, IN HIS CAPACITY AS GENERAL MANAGER OF THE NATIONAL HOUSING AUTHORITY (NHA), MR. PERCIVAL CHAVEZ, IN HIS CAPACITY AS CHAIRMAN OF THE PRESIDENTIAL COMMISSION FOR THE URBAN POOR (PCUP), MAYOR FELICIANO BELMONTE, IN HIS CAPACITY AS MAYOR OF QUEZON CITY, SECRETARY ELISEA GOZUN, IN HER CAPACITY AS SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR) AND SECRETARY FLORENTE SORIQUEZ, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH) AS EX-OFFICIO MEMBERS OF THE NATIONAL GOVERNMENT CENTER ADMINISTRATION COMMITTEE, RESPONDENTS.

D E C I S I O N

TINGA, J.:

The instant petition for prohibition under Rule 65 of the 1997 Rules of Civil Procedure, with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, seeks to prevent respondents from enforcing the implementing rules and regulations (IRR) of Republic Act No. 9207, otherwise known as the "National Government Center (NGC) Housing and Land Utilization Act of 2003."

Petitioner Holy Spirit Homeowners Association, Inc. (Association) is a homeowners association from the West Side of the NGC. It is represented by its president, Nestorio F. Apolinario, Jr., who is a co-petitioner in his own personal capacity and on behalf of the association.

Named respondents are the *ex-officio* members of the National Government Center Administration Committee (Committee). At the filing of the instant petition, the Committee was composed of Secretary Michael Defensor, Chairman of the Housing and Urban Development Coordinating Council (HUDCC), Atty. Edgardo Pamintuan, General Manager of the National Housing Authority (NHA), Mr. Percival Chavez, Chairman of the Presidential Commission for Urban Poor (PCUP), Mayor Feliciano Belmonte of Quezon City, Secretary Elisea Gozun of the Department of Environment and Natural Resources (DENR), and Secretary Florante Soriquez of the Department of Public Works and Highways (DPWH).

Prior to the passage of R.A. No. 9207, a number of presidential issuances authorized the creation and development of what is now known as the National Government Center (NGC).

On March 5, 1972, former President Ferdinand Marcos issued Proclamation No. 1826, reserving a parcel of land in Constitution Hills, Quezon City, covering a little over 440 hectares as a national government site to be known as the NGC.[1]

On August 11, 1987, then President Corazon Aquino issued Proclamation No. 137, excluding 150 of the 440 hectares of the reserved site from the coverage of Proclamation No. 1826 and authorizing instead the disposition of the excluded portion by direct sale to the *bona fide* residents therein.[2]

In view of the rapid increase in population density in the portion excluded by Proclamation No. 137 from the coverage of Proclamation No. 1826, former President Fidel Ramos issued Proclamation No. 248 on September 7, 1993, authorizing the vertical development of the excluded portion to maximize the number of families who can effectively become beneficiaries of the government's socialized housing program.[3]

On May 14, 2003, President Gloria Macapagal-Arroyo signed into law R.A. No. 9207. Among the salient provisions of the law are the following:

> Sec. 2. *Declaration of Policy*.– It is hereby declared the policy of the State to secure the land tenure of the urban poor. Toward this end, lands located in the NGC, Quezon City shall be utilized for housing, socioeconomic, civic, educational, religious and other purposes.
>
> Sec. 3. *Disposition of Certain Portions of the National Government Center Site to Bona Fide Residents*. – Proclamation No. 1826, Series of 1979, is hereby amended by excluding from the coverage thereof, 184 hectares on the west side and 238 hectares on the east side of Commonwealth Avenue, and declaring the same open for disposition to *bona fide* residents therein: *Provided*, That the determination of the *bona fide* residents on the west side shall be based on the census survey conducted in 1994 and the determination of the *bona fide* residents on the east side shall be based on the census survey conducted in 1994 and occupancy verification survey conducted in 2000: Provided, *further*, That all existing legal agreements, programs and plans signed, drawn up or implemented and actions taken, consistent with the provisions of this Act are hereby adopted.
>
> Sec. 4. *Disposition of Certain Portions of the National Government Center Site for Local Government or Community Facilities, Socioeconomic, Charitable, Educational and Religious Purposes*. – Certain portions of land within the aforesaid area for local government or community facilities, socioeconomic, charitable, educational and religious institutions are hereby reserved for disposition for such purposes: *Provided*, That only those **institutions** already operating and with existing facilities or structures, or those occupying the land may avail of the disposition

> program established under the provisions this Act; *Provided, further*, That in ascertaining the specific areas that may be disposed of in favor of these **institutions**, the existing site allocation shall be used as basis therefore: *Provided, finally*. That in determining the reasonable lot allocation of such **institutions** without specific lot allocations, the land area that may be allocated to them shall be based on the area actually used by said institutions at the time of effectivity of this Act. (Emphasis supplied.)

In accordance with Section 5 of R.A. No. 9207,[4] the Committee formulated the Implementing Rules and Regulations (IRR) of R.A. No. 9207 on June 29, 2004. Petitioners subsequently filed the instant petition, raising the following issues:

> WHETHER OR NOT SECTION 3.1 (A.4), 3.1 (B.2), 3.2 (A.1) AND 3.2 (C.1) OF THE RULES AND REGULATIONS OF REPUBLIC ACT NO. 9207, OTHERWISE KNOWN AS "NATIONAL GOVERNMENT CENTER (NGC) HOUSING AND LAND UTILIZATION ACT OF 2003" SHOULD BE DECLARED NULL AND VOID FOR BEING INCONSISTENT WITH THE LAW IT SEEKS TO IMPLEMENT.
>
> WHETHER OR NOT SECTION 3.1 (A.4), 3.1 (B.2), 3.2 (A.1) AND 3.2 (C.1) OF THE RULES AND REGULATIONS OF REPUBLIC ACT NO. 9207, OTHERWISE KNOWN AS "NATIONAL GOVERNMENT CENTER (NGC) HOUSING AND LAND UTILIZATION ACT OF 2003" SHOULD BE DECLARED NULL AND VOID FOR BEING ARBITRARY, CAPRICIOUS AND WHIMSICAL. [5]

First, the procedural matters.

The Office of the Solicitor General (OSG) argues that petitioner Association cannot question the implementation of Section 3.1 (b.2) and Section 3.2 (c.1) since it does not claim any right over the NGC East Side. Section 3.1 (b.2) provides for the maximum lot area that may be awarded to a resident-beneficiary of the NGC East Side, while Section 3.2 (c.1) imposes a lot price escalation penalty to a qualified beneficiary who fails to execute a contract to sell within the prescribed period.[6] Also, the OSG contends that since petitioner association is not the duly recognized people's organization in the NGC and since petitioners not qualify as beneficiaries, they cannot question the manner of disposition of lots in the NGC.[7]

"Legal standing" or *locus standi* has been defined as a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged.... The gist of the question of standing is whether a party alleges "such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions."[8]

Petitioner association has the legal standing to institute the instant petition, whether or not it is the duly recognized association of homeowners in the NGC. There is no dispute that the individual members of petitioner association are residents of the NGC. As such they are covered and stand to be either benefited or injured by the enforcement of the IRR, particularly as regards the selection process of beneficiaries

and lot allocation to qualified beneficiaries. Thus, petitioner association may assail those provisions in the IRR which it believes to be unfavorable to the rights of its members. Contrary to the OSG's allegation that the failure of petitioner association and its members to qualify as beneficiaries effectively bars them from questioning the provisions of the IRR, such circumstance precisely operates to confer on them the legal personality to assail the IRR. Certainly, petitioner and its members have sustained direct injury arising from the enforcement of the IRR in that they have been disqualified and eliminated from the selection process. While it is true that petitioners claim rights over the NGC West Side only and thus cannot be affected by the implementation of Section 3.1 (b.2), which refers to the NGC East Side, the rest of the assailed provisions of the IRR, namely, Sections 3.1 (a.4), 3.2 (a.1) and 3.2 (c.1), govern the disposition of lots in the West Side itself or all the lots in the NGC.

We cannot, therefore, agree with the OSG on the issue of *locus standi*. The petition does not merit dismissal on that ground.

There are, however, other procedural impediments to the granting of the instant petition. The OSG claims that the instant petition for prohibition is an improper remedy because the writ of prohibition does not lie against the exercise of a quasi-legislative function.[9] Since in issuing the questioned IRR of R.A. No. 9207, the Committee was not exercising judicial, quasi-judicial or ministerial function, which is the scope of a petition for prohibition under Section 2, Rule 65 of the 1997 Rules of Civil Procedure, the instant prohibition should be dismissed outright, the OSG contends. For their part, respondent Mayor of Quezon City[10] and respondent NHA[11] contend that petitioners violated the doctrine of hierarchy of courts in filing the instant petition with this Court and not with the Court of Appeals, which has concurrent jurisdiction over a petition for prohibition.

The cited breaches are mortal. The petition deserves to be spurned as a consequence.

Administrative agencies possess quasi-legislative or rule-making powers and quasi-judicial or administrative adjudicatory powers. Quasi-legislative or rule-making power is the power to make rules and regulations which results in delegated legislation that is within the confines of the granting statute and the doctrine of non-delegability and separability of powers.[12]

In questioning the validity or constitutionality of a rule or regulation issued by an administrative agency, a party need not exhaust administrative remedies before going to court. This principle, however, applies only where the act of the administrative agency concerned was performed pursuant to its quasi-judicial function, and not when the assailed act pertained to its rule-making or quasi-legislative power.[13]

The assailed IRR was issued pursuant to the quasi-legislative power of the Committee expressly authorized by R.A. No. 9207. The petition rests mainly on the theory that the assailed IRR issued by the Committee is invalid on the ground that it is not germane to the object and purpose of the statute it seeks to implement. Where what is assailed is the validity or constitutionality of a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same.[14]

Since the regular courts have jurisdiction to pass upon the validity of the assailed IRR issued by the Committee in the exercise of its quasi-legislative power, the judicial course to assail its validity must follow the doctrine of hierarchy of courts. Although the Supreme Court, Court of Appeals and the Regional Trial Courts have concurrent jurisdiction to issue writs of *certiorari, prohibition, mandamus, quo warranto, habeas corpus* and injunction, such concurrence does not give the petitioner unrestricted freedom of choice of court forum.[15]

True, this Court has the full discretionary power to take cognizance of the petition filed directly with it if compelling reasons, or the nature and importance of the issues raised, so warrant.[16] A direct invocation of the Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.[17]

In *Heirs of Bertuldo Hinog v. Melicor*,[18] the Court said that it will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts, and exceptional and compelling circumstances, such as cases of national interest and of serious implications, justify the availment of the extraordinary remedy of writ of certiorari, calling for the exercise of its primary jurisdiction.[19] A perusal, however, of the petition for prohibition shows no compelling, special or important reasons to warrant the Court's taking cognizance of the petition in the first instance. Petitioner also failed to state any reason that precludes the lower courts from passing upon the validity of the questioned IRR. Moreover, as provided in Section 5, Article VIII of the
Constitution,[20] the Court's power to evaluate the validity of an implementing rule or regulation is generally appellate in nature. Thus, following the doctrine of hierarchy of courts, the instant petition should have been initially filed with the Regional Trial Court.

A petition for prohibition is also not the proper remedy to assail an IRR issued in the exercise of a quasi-legislative function. Prohibition is an extraordinary writ directed against any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, ordering said entity or person to desist from further proceedings when said proceedings are without or in excess of said entity's or person's jurisdiction, or are accompanied with grave abuse of discretion, and there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law.[21] Prohibition lies against judicial or ministerial functions, but not against legislative or quasi-legislative functions. Generally, the purpose of a writ of prohibition is to keep a lower court within the limits of its jurisdiction in order to maintain the administration of justice in orderly channels.[22] Prohibition is the proper remedy to afford relief against usurpation of jurisdiction or power by an inferior court, or when, in the exercise of jurisdiction in handling matters clearly within its cognizance the inferior court transgresses the bounds prescribed to it by the law, or where there is no adequate remedy available in the ordinary course of law by which such relief can be obtained.[23] Where the principal relief sought is to invalidate an IRR, petitioners' remedy is an ordinary action for its nullification, an action which properly falls under the jurisdiction of the Regional Trial Court. In any case, petitioners' allegation that "respondents are performing or threatening to perform functions without or in excess of their jurisdiction" may