



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 23 February 2022 which reads as follows:

“G.R. No. 253456 (Mallow Holdings, Inc. [Formerly Mallow Realty, Inc.] for itself and on behalf of Flame Tree Holdings, Inc., Rocher Holdings, Inc., Davao Gateway Corporation & Hazel Holdings, Inc., vs. LADECO Agrarian Reform Beneficiaries Cooperative [LARBCO] through its Chairman, Reynaldo L. Eray.) – This Petition for Review on *Certiorari* (petition)¹ with application for the issuance of a writ of preliminary injunction (WPI) and/or temporary restraining order (TRO) seeks to reverse and set aside the Decision² dated 28 November 2019 and Resolution³ dated 25 August 2020 of the Court of Appeals (CA) in CA-G.R. SP. No. 160249. The CA affirmed the Decision⁴ dated 15 June 2015 and Resolution⁵ dated 06 March 2019 of the Office of the President (OP) in OP Case No. 09-1-460.

Antecedents

On 05 February 1998, the Department of Agrarian Reform (DAR) issued Conversion Order No. 97-46-04 (Conversion Order) converting 326.2694-hectare parcels of land at *Barangays* New Carmen, Waan, Mandug, and Tigatto, Davao City from agricultural to residential, commercial, and industrial use.⁶ The application for land use conversion was filed by Lapanday Prime Development Corporation (Lapanday), which utilized the subject property for a banana plantation.

The Conversion Order imposed several conditions, among which were: (1) payment of disturbance compensation and such other benefits agreed upon by the farmworkers and Lapanday; and (2) the completion of the development within five (5) years from the issuance of the Conversion

¹ *Rollo*, pp. 13-75.

² *Id.* at 122-138; penned by Associate Justice Marlene B. Gonzales-Sison and concurred in by Associate Justices Pedro B. Corales and Ronaldo Roberto B. Martin of the Special Tenth (10th) Division, Court of Appeals Manila.

³ *Id.* at 140-143.

⁴ *Id.* at 364-367; signed by Executive Secretary Paquito N. Ochoa, Jr.

⁵ *Id.* at 401-405; signed by Executive Secretary Salvador C. Medialdea.

⁶ *Id.* at 191-195.

16/22

Order.⁷

Even before the issuance of the Conversion Order, Lapanday and members of respondent LADECO Agrarian Reform Beneficiaries Cooperative (LARBCO), previously known as Ladeco/CADPI Agrarian Reform Beneficiaries Association, Inc. (LACEABAI),⁸ entered into a Memorandum of Agreement regarding the payment of disturbance compensation.⁹ The package was stipulated to include separation pay, quitclaim compensation, and a free homelot.¹⁰

On 15 February 2002, Lapanday filed a request for an extension of five (5) years within which to complete the development. Lapanday reasoned that the economic crisis and unstable peace and order situation in the locality adversely affected the development. After deliberating on the request, the DAR found it meritorious and granted the request in an Order dated 14 January 2003.¹¹

Before the end of the extended five (5)-year period, Lapanday sold to petitioner Mallow Realty, Inc., now Mallow Holdings, Inc. (Mallow), 88.3007 out of the 326.2694 hectares.¹² At the time of the sale, the portion sold to Mallow had no improvements.¹³ Mallow then divided the property, with 40 hectares to be subject of a Voluntary Offer to Sell (VOS) to the Lapanday Christian Muslim Agrarian Reform Beneficiaries (LACMAREBCO), and the remaining 48.3007 hectares for development into a residential subdivision.¹⁴

In 2007, Lapanday and Mallow filed separate requests for extension of time to develop their respective portions,¹⁵ both citing the prevailing economic and market conditions that hindered full-scale development.¹⁶ In the interim, Mallow requested for an exemption from posting the requisite performance bond on the ground that 40 hectares of the property had been offered for VOS.¹⁷ Nonetheless, Mallow posted its performance bond on 30 January 2008.¹⁸

In an Order dated 14 March 2008 (Second Extension Order), DAR

⁷ *Id.* at 194.

⁸ *Id.* at 258.

⁹ *Id.* at 202-204.

¹⁰ *Id.* at 203.

¹¹ *Id.* at 212-215.

¹² *Id.* at 226-228.

¹³ *Id.* at 19.

¹⁴ *Id.*

¹⁵ *Id.* at 217-233.

¹⁶ *Id.*

¹⁷ *Id.* at 229.

¹⁸ *Id.* at 240.

granted the request and gave Mallow a non-extendible period of five (5) years from receipt of the Order to complete the development. DAR also required the posting of a performance bond within five (5) days from receipt of the Order.¹⁹

LARBCO then filed a Motion for Leave to Intervene and Motion for Reconsideration, assailing the extension granted to Mallow.²⁰ In an Order dated 06 July 2009, DAR recognized LARBCO's personality to intervene but denied its Motion for Reconsideration.²¹ DAR ruled that the failure to develop the property within the allowed period was due to circumstances beyond the control of the applicant/landowner, *i.e.*, the economic crises that affected the Philippine economy.²²

Ruling of the Office of the President (OP)

LARBCO elevated the Second Extension Order to the OP. In a Decision²³ dated 15 June 2015, the OP reversed the DAR and revoked the Conversion Order as to the 48.3007 portion. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the Order dated 14 March 2008 of the DAR Secretary granting the Second Request for Extension of Time to Develop and the Resolution dated 6 July 2009 of the DAR Secretary sustaining the extension is hereby **Reversed and Set Aside** and a new one rendered denying the extension. For failure to complete the development of the property, Conversion Order No. 97-46-04, in so far as the 48.3007 hectares is concerned, is hereby **REVOKED**.

SO ORDERED.²⁴

The OP found misrepresentation on the part of Lapanday. It found that Lapanday requested an extension to "complete" the development of the property, but Mallow's representative admitted that no development was introduced by Lapanday. As successor-in-interest, Mallow merely steps into the shoes of Lapanday and cannot free itself from the misrepresentation of its predecessor.²⁵

According to the OP, Mallow failed to file a performance bond before requesting for an extension, as required in DAR Administrative Order No. 01-02. The request for extension should not have been entertained as the

¹⁹ *Id.*

²⁰ *Id.* at 197-200.

²¹ *Id.* at 261-270.

²² *Id.* at 268.

²³ *Id.* at 364-367; signed by Executive Secretary Paquito N. Ochoa, Jr.

²⁴ *Id.* at 367.

²⁵ *Id.* at 366.

performance bond was not yet paid.²⁶

Mallow moved for reconsideration, but it was denied by the OP in a Resolution²⁷ dated 06 March 2019. The OP ruled that Mallow's motion for reconsideration was filed out of time. Accordingly, the OP Decision attained finality. On the merits, the OP maintained its ruling that the performance bond was belatedly filed, and there was nothing to complete since there was no development in the 48.3007-hectare portion of the property. The OP also noted that Mallow failed to present any proof supporting its allegation that the property is no longer fit for agricultural purposes.²⁸

Ruling of the CA

On appeal, the CA affirmed the OP in a Decision²⁹ dated 28 November 2019, the *fallo* of which reads:

WHEREFORE, the petition is **DENIED**. The Office of the President's Decision in OP Case No. 09-1-460 dated June 15, 2015 and the Resolution dated March 6, 2019 are **AFFIRMED**.

SO ORDERED.³⁰

The CA rebuffed Mallow's claim that the Second Extension Order had already attained finality before LARBCO filed its Motion for Leave to Intervene and Motion for Reconsideration. The Second Extension Order was not served on LARBCO and, thus, did not become final against it. Even assuming that the Second Extension Order had become final and executory before LARBCO intervened, the case calls for a relaxation of the rules in light of the public interest involved, the merits of the case, and the existence of supervening circumstances.³¹ The CA also found that Mallow failed to prove that its Motion for Reconsideration before the OP was timely filed.³²

As to the personality of LARBCO to intervene, the CA ruled that LARBCO's standing had been affirmed by the DAR. The factual question on the interest of LARBCO is a factual question that requires the special knowledge and expertise of DAR.³³

On the merits, the CA affirmed the finding of the OP that there was misrepresentation on the part of Lapanday. The economic crisis, which had

²⁶ *Id.* at 367.

²⁷ *Id.* at 401-404; signed by Executive Secretary Salvador C. Medialdea.

²⁸ *Id.*

²⁹ *Id.* at 122-138.

³⁰ *Id.* at 137.

³¹ *Id.* at 130.

³² *Id.* at 132.

³³ *Id.* at 133.

already been cited in the first request for extension, is not a meritorious ground.³⁴ The CA further ruled that Mallow belatedly filed its performance bond.³⁵

Issues

The issues raised for this Court's resolution are whether:

1. LARBCO has an interest in the proceedings;
2. Mallow timely filed its motion for reconsideration before the OP;
3. The Second Extension Order had attained finality before LARBCO's Motion for Leave to Intervene and Motion for Reconsideration were filed;
4. The CA and the OP erred in ordering the revocation of the Conversion Order on the ground of misrepresentation and belated filing of the performance bond; and
5. The CA erred in disregarding evidence that the subject property is no longer agricultural and has been developed into a residential subdivision.

Ruling of the Court

The petition is meritorious.

We find it proper to re-examine the records and rule on the factual issues presented since the findings of the DAR conflict with those of the OP and the CA. Moreover, the records show a misapprehension of facts and certain conclusions are not supported by the evidence.³⁶ Hence, to finally resolve this controversy, We will rule on the merits.

The status of LARBCO as an actual or potential Agrarian Reform Beneficiary cannot be challenged before the Court. The findings of DAR as to the standing of LARBCO must be sustained.

Before We delve into the merits of the case, We first resolve Mallow's

³⁴ *Id.* at 136.

³⁵ *Id.* at 136-137.

³⁶ *See Delos Reyes Vda. Del Prado v. People*, 685 Phil. 149 (2012) [Per J. Reyes].

contention regarding the interest of LARBCO in these proceedings. According to Mallow, LARBCO is not a cooperative of farmers but of factory workers at Lapanday's box plant.³⁷ As such, LARBCO members are supposedly disqualified to be Agrarian Reform Beneficiaries (ARBs).³⁸ Mallow also claims that LARBCO members already received disturbance compensation and, thus, do not have any right to the subject property.³⁹

We do not agree.

It is improper to assail the status of LARBCO members as ARBs before the Court. It is undisputed that LARBCO was the same cooperative that received disbursement compensation from Lapanday. Both the Conversion Order and the Memorandum of Agreement executed by Lapanday and LARBCO (then LACEABAI) recognized LARBCO members as ARBs.⁴⁰

One's status as an ARB is determined by the DAR upon actual investigation and documentation.⁴¹ The classification, identification, inclusion, exclusion, qualification, or disqualification of potential or actual ARBs are governed by extensive administrative proceedings before the DAR.⁴²

Hence, any change in the qualifications of LARBCO members must first be brought before the DAR. The Court may not, at the first instance, pass upon the qualifications of LARBCO members as ARBs. Pursuant to the doctrine of primary jurisdiction, courts will not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal prior to the resolution of that question by the administrative agency.⁴³

As to the payment of disturbance compensation, the Court has ruled that the receipt of disturbance compensation estops beneficiaries from assailing the validity of the conversion order.⁴⁴ Indeed, the records show a sample waiver, release, and quitclaim executed by a Lapanday employee in consideration of the disturbance compensation.⁴⁵ However, the records are

³⁷ *Id.* at p. 40.

³⁸ *Id.*

³⁹ *Id.* at p. 43.

⁴⁰ *Id.* at p. 202.

⁴¹ Section 2.2 of DAR Administrative Order No. 07-03.

⁴² *See* Section 2.14 of DAR Administrative Order No. 07-03. DAR Administrative Order No. 03-03, Section 2.2 in relation to Sections 11 to 23 of DAR Administrative Order No. 03-17.

⁴³ *See Smart Communications, Inc. v. National Telecommunications Commission*, G.R. Nos. 151908 & 152063, 12 August 2003 [per J. Ynares-Santiago].

⁴⁴ *See Ayala Land, Inc. v. Castillo*, G.R. No. 178110, 15 June 2011 [per J. Sereno]; *Spouses Villorente v. Aplaya Laiya Corp.*, G.R. No. 145013, 31 March 2005 [per J. Callejo, Sr.].

⁴⁵ *Rollo*, p. 210.

bereft of proof showing that all LARBCO members received disturbance compensation and executed similar waivers. The Court cannot overturn the factual findings of the DAR, OP, and CA without basis.

Besides, the issue of LARBCO's lack of interest as an intervenor was only raised for the first time on appeal before the CA. LARBCO's intervention was not challenged before the DAR and the OP. Issues raised for the first time on appeal are barred by estoppel.⁴⁶ As it stands, therefore, LARBCO must remain a party to this case.

The timeliness of the motion for reconsideration filed before the OP had been rendered inconsequential by the CA's ruling on the merits and the merits of this petition.

Mallow argues that it timely filed its Motion for Reconsideration with the OP on 15 July 2015, or on the last day of the fifteen (15)-day period prescribed under Administrative Order No. 22, series of 2011.⁴⁷ The OP arrived at a different conclusion, finding that the Motion for Reconsideration was only filed on 17 August 2015.⁴⁸

Notably, the records do not bear the alleged Registry Receipt No. 038147266ZZ showing that the Motion for Reconsideration was actually mailed on 15 July 2015. In similar fashion, however, the records do not show the basis for the OP's conclusion that the Motion for Reconsideration was only filed on 17 August 2015. In its Resolution⁴⁹ dated 06 March 2019, the OP merely cited its own Resolution dated 09 September 2015 to support the alleged date of filing.

Under the Rules of Court, which apply in a suppletory character to proceedings before the OP,⁵⁰ the date of mailing is evinced by the post office stamp on the envelope or the registry receipt.⁵¹ Thus, in the absence of copies of the stamped envelope or registry receipt, the Court is unable to arrive at a definitive ruling on whether Mallow's Motion for Reconsideration before the OP was timely filed.

Nonetheless, at this stage of the proceedings, it would be unjust to fixate on the timeliness of Mallow's Motion for Reconsideration before the OP since the CA ruled upon the merits of the case. Moreover, even assuming

⁴⁶ See *Ayala Land, Inc. v. Castillo*, 667 Phil. 274 (2011) [Per J. Sereno].

⁴⁷ *Rollo*, p. 62.

⁴⁸ *Id.* at 402.

⁴⁹ *Id.* at 401-404.

⁵⁰ See Section 19 of Administrative Order No. 22, s. 2011.

⁵¹ See Rule 13, Section 13 of the Rules of Civil Procedure.

that Mallow belatedly filed its motion for reconsideration, the merits of this petition call for a relaxation of the rules.

The Court has allowed some meritorious cases to proceed despite inherent procedural defects and lapses. This is in keeping with the principle that rules of procedure are mere tools designed to facilitate the attainment of justice, and that strict and rigid application of rules which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided. It is a far better and more prudent cause of action for the court to excuse a technical lapse and afford the parties a review of the case to attain the ends of justice, rather than dispose of the case on technicality and cause grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.⁵²

Moreover, rules of procedure are, as a matter of course, construed liberally in proceedings before administrative bodies.⁵³ If judicial appeals and motions filed out of time may be excused,⁵⁴ there is no reason to impose stricter standards upon motions filed before administrative agencies.

Mallow stands to lose 48.3007 hectares of land and substantial investments. These considerations, coupled with the errors committed by the OP and the CA, justify judicial review.⁵⁵

The Conversion Order is final and immutable. As to the Second Extension Order, non-receipt by LARBCO did not toll the period for its finality. Nonetheless, the DAR correctly acted on LARBCO's motions in the spirit of liberality.

Preliminarily, there is a need to distinguish between the finality of the Conversion Order and that of the Second Extension Order to clearly define the issues for Our resolution.

The Conversion Order issued in favor of Lapanday had long attained finality. It was neither assailed nor appealed by any of the parties. In fact, Lapanday's farmworkers, who were also LARBCO members, did not object to the conversion.⁵⁶

⁵² *Tacloban II Neighborhood Association, Inc. v. Office of the President*, 588 Phil. 177 (2008) [Per J. Chico-Nazario].

⁵³ *Id.*

⁵⁴ *Lukban v. Carpio-Morales*, G.R. No. 238563, 12 February 2020 [Per J. Caguioa].

⁵⁵ *See Ginete v. Court of Appeals*, 357 Phil. 36 (1998) [Per J. Romero].

⁵⁶ *Rollo*, p. 192.

Once final and executory, the Conversion Order can no longer be questioned, modified, or reversed.⁵⁷ The declaration that the property is suitable for non-agricultural purposes cannot be disturbed.⁵⁸

However, in the proceedings before the DAR, LARBCO argued that the land is suitable for agriculture.⁵⁹ This is a circumvention of the final Conversion Order. Upon the finality of the Conversion Order, the only issue that may be brought up is whether the Conversion Order may be revoked for justifiable grounds and within the period prescribed by DAR Administrative Order No. 01-02.

In contrast, the proceedings for the Second Extension Order are still live. The issue therein is the propriety of granting an extension to develop the property, and not the suitability of the land for agricultural use.

As to the alleged finality of the Second Extension Order, Mallow correctly argues that LARBCO's non-receipt of the Second Extension Order did not prevent the order from becoming final and executory.⁶⁰

Under DAR Administrative Order No. 01-02, the rules applicable at the time LARBCO intervened, a motion for reconsideration must be filed within fifteen (15) days from receipt of the challenged order.⁶¹ Referring suppletorily the rule on finality of conversion orders for lack of a specific rule, the order shall become "final and executory after all parties were able to receive a copy of the Order, and after the lapse of fifteen (15) calendar days from receipt by the party who last receives a copy of the Order, and no motion for reconsideration or appeal has been filed."⁶²

Applying the provision, the CA ruled that since LARBCO was not impleaded and furnished with a copy of the Second Extension Order, the Order did not attain finality with respect to LARBCO.⁶³ However, this interpretation is inconsistent with the clear text of DAR Administrative Order No. 01-02 and the general principles on immutability of judgments. Only receipt and non-receipt by a party may affect the period of finality.

⁵⁷ See *CAT Realty Corp. v. Department of Agrarian Reform*, G.R. No. 208399, 23 June 2021 [Per J. Zalameda]; *Berboso v. Court of Appeals*, 527 Phil. 167 (2006) [Per J. Chico-Nazario].

⁵⁸ See *CAT Realty Corp. v. Department of Agrarian Reform*, *supra*.

⁵⁹ *Rollo*, pp. 252-253: "2. That herein movant/intervenor reiterates the findings and recommendations of the team that conducted ocular inspection recommending for the disapproval of the application on the ground that the area is a productive/efficient agricultural land. This fact can be proven if another ocular inspection will be conducted which will prove that in truth and in fact the land is productive and efficient agricultural land; In fact in the adjacent areas, there are agricultural activities viably conducted thereat;"

⁶⁰ *Rollo*, p. 31.

⁶¹ Section 36 of DAR Administrative Order No. 01-02.

⁶² *Id.* at Sec. 45.

⁶³ *Rollo*, p. 130.

Non-receipt by LARBCO, which was then a non-party prior to its intervention, cannot toll the reglementary period. Following the CA's reasoning, a judgment will never attain finality because it may be assailed by any third person who was not served with a copy of the decision.

Notwithstanding the lapse of the fifteen (15)-day period to assail the Second Extension Order at the time LARBCO filed its Motion for Leave to Intervene and Motion for Reconsideration, the DAR correctly admitted the same into the records and acted thereon. As emphasized by the CA, LARBCO already sent letters expressing its objection to the request for extension even before the Second Extension Order was issued.⁶⁴ Since the proceedings before the DAR are non-litigious in nature and the strict application of procedural technicalities is expressly discouraged,⁶⁵ the DAR should have treated the letters as akin to motions for intervention. Accordingly, LARBCO should have been furnished with a copy of the Second Extension Order. LARBCO was only constrained to file a formal motion for leave to intervene after non-receipt of the Second Extension Order despite the previous letters.⁶⁶

In the same spirit of liberality animating Our disposition on the timeliness of Mallow's motion for reconsideration before the OP, We find no need to further belabor on the propriety of acting on LARBCO's motions.

The CA and the OP erred in ordering the revocation of the Conversion Order based on grounds for revocation newly discovered by the OP itself.

Notwithstanding the propriety of admitting and acting on LARBCO's motions, their merit is an entirely different issue.

In its Motion for Reconsideration, LARBCO argued that Mallow violated one of the conditions in the Conversion Order for failure to develop the subject property.⁶⁷ Since the Motion for Reconsideration essentially sought to revoke the Conversion Order, the standards for revocation should have been applied by the DAR, OP, and CA.

Under DAR Administrative Order No. 01-02, a petition for revocation must be filed within ninety (90) days from discovery of facts warranting the

⁶⁴ *Id.* at 129-130.

⁶⁵ See Section 48.2 of DAR Administrative Order No. 01-02.

⁶⁶ *Rollo*, p. 198.

⁶⁷ *Id.* at 252-253.

revocation.⁶⁸ This period is not merely a procedural rule that may be brushed aside, as it directly affects the landowner's substantive right to maintain ownership and peaceful possession of the land. In *CAT Realty Corp. v. Department of Agrarian Reform*,⁶⁹ the Court emphasized that the ninety (90)-day period is mandatory and could not be circumvented by feigning ignorance of facts and circumstances surrounding the subject property.

In this case, there is no showing that the prayer for the revocation of the Conversion Order was made within the ninety (90)-day period. LARBCO only opposed the extension after Lapanday allegedly reneged on its promise to continue the employment of LARBCO members and their dependents.⁷⁰ LARBCO could not claim that it was previously unaware of the status of the land, since it admitted that its members were working on the land.⁷¹

We are constrained to ignore the barring effect of the ninety (90)-day period since it was not raised before the DAR. The period is nonetheless taken judicial notice of to emphasize the errors committed by the OP and the CA.

The OP ignored the ninety (90)-day period, but supplied grounds for the revocation of the Conversion Order. Before the DAR and in its appeal memorandum before the OP, LARBCO only argued that the economy is strong, citing statements made by then President Gloria Macapagal-Arroyo, and that Mallow failed to develop the land.⁷² The grounds for revocation which reached this Court, *i.e.*, misrepresentation and failure to post the required bond, were raised by the OP itself. Thus, DAR did not have an opportunity to pass upon them.

In *Ayala Land, Inc. v. Castillo* (Ayala Land, Inc.),⁷³ the Court ruled that the CA erred in ruling upon an issue not raised by the farmers before the DAR, as the latter was deprived of any opportunity to dwell on the issue.

⁶⁸ Section 46 of DAR Administrative Order No. 01-02.

⁶⁹ *Supra* at note 57.

⁷⁰ *Rollo*, p. 256 (Letter dated 26 November 2007 from LACEABAI to the DAR Regional Director):

In return, LADECO offered the ARB's PhP 30,000.00 per member as goodwill package in support of their program and also for the withdrawal of our letter requesting to quash their application for an extension filed at the Department of Agrarian Reform. We accept their offer of goodwill package assuming continuous employment for us and our dependents. However, all employees and ARB members working in the 237.97 and 88.3 hectares were terminated last November 13, 2007.

In this regard, we strongly oppose and appeal to quash the request for an extension of time to develop the 88.3 hectares filed by Mallow Realty, Inc. and opt to Voluntary Offer to Sell (VOS) scheme of the Agrarian Reform Program.

⁷¹ *Id.*

⁷² *Id.* at 252-253 and 533-538.

⁷³ *Supra* at note 46.

The Court ruled, thus:

Assuming *arguendo* however, that the farmers had submitted the proper document to the appellate court, the latter could not have reversed the OP Decision on nothing more than this submission, as the issue of the Notice of Acquisition had never been raised before the administrative agency concerned. In fact, the records show that this issue was not raised in the original Petition for Revocation in the second Motion for Reconsideration filed by the farmers before the DAR, and that no Notice of Acquisition was attached to their Appeal Memorandum to the OP. As a consequence, the OP, Secretary Pagdanganan, Secretary Braganza, and Secretary Morales did not have any opportunity to dwell on this issue in their Orders and Decision. Instead, what respondents persistently allege is the concealment of the sale by CCFI and ALI. The three DAR Secretaries, including Secretary Garilao who issued the Conversion Order, correctly found this allegation bereft of merit.

xxx

The CA erred in passing upon and ruling on an issue not raised by the farmers themselves. This Court must not countenance the violation of petitioner's right to due process by the CA upholding its conclusion founded on a legal theory only newly discovered by the CA itself. This is especially insupportable considering the long history of government affirmation of the conversion of the subject land.

The only difference is in *Ayala Land, Inc.*, the new ground for invalidation of the conversion order was raised by the CA, and not by the OP. Nonetheless, the violation of the landowner's right to due process and the disregard of the DAR's primary jurisdiction are the same. By supplying new grounds for revocation while ignoring the ninety (90)-day prescriptive period, the OP, and eventually the CA, violated Mallow's right to due process and the jurisdiction of the DAR to resolve the same. Had the new grounds been raised before the DAR, the DAR would have undertaken "reasonable means to ascertain the facts of the controversy, including a thorough examination of witnesses and, ocular inspection of the premises in question, as may be necessary."⁷⁴ These were not done in this case.

The finding of misrepresentation is not supported by substantial evidence.

Even if We were to disregard the transgression of the right to due process and the disregard of DAR's primary jurisdiction, the petition should be granted just the same.

⁷⁴ Section 48.3 of DAR Administrative Order No. 01-02.

Non-compliance with the conditions of a conversion order must be proved by substantial evidence.⁷⁵ Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.⁷⁶

Here, there is no substantial evidence of misrepresentation as to the status of the developments in the property. The finding of misrepresentation is based on a single statement made by Mallow's representative during an ocular inspection in the subject property. As summarized in the Second Extension Order:

As admitted by the representative of Mallow Realty, no development was introduced by the original grantee of the Conversion Order (Lapanday). However, according to the representative of Mallow Realty, the new owner is now committed to develop the 47.9511 hectares.⁷⁷

This statement was then contrasted with Lapanday's statement that it needed more time to "complete" the development.⁷⁸ In essence, the CA and the OP ruled that there was nothing to "complete" if the development had not even started. The CA and the OP then imputed Lapanday's misrepresentation to Mallow.

The CA and the OP took the quoted statement out of context. Based on the records, there were no completed structures on the property transferred to Mallow, but Lapanday had already started, and even completed, developing other portions of the 326.2694-hectare property. The conclusion of the OP that there was no development in the property is contradicted by the records.⁷⁹

The Order dated 24 July 2007, granting Lapanday's motion for second extension, provides a more accurate picture of the subject property at the time both Lapanday and Mallow sought the extension. As summarized in the Order, the representations of Lapanday candidly state that certain portions were developed, but others, including the portion ceded to Mallow, were undeveloped:

On 07 June 2007, a letter-Request was received by the CLUPPI requesting, for the second time, an extension of time to develop the subject landholdings. It was mentioned in the letter-request of Lapanday thru its representative, Atty. Jocelyn Arro-Valencia, that the original area in the

⁷⁵ See *Kasamaka-Canlubang, Inc. v. Laguna Estate Development Corp.*, 735 Phil. 648 (2014) [Per J. Peralta].

⁷⁶ *Montinola v. Philippine Airlines*, 742 Phil. 487 (2014) [Per J. Leonen].

⁷⁷ *Rollo*, p. 230.

⁷⁸ *Id.* at 365.

⁷⁹ See *id.* at 404.

approved Conversion Order which is 326.2694 hectares has been reduced to 237.97 hectares because **the 88.3000 hectares was excluded by the owners themselves, since it already belongs to a sister company of Lapanday. As mentioned in their Status Report of development such area is undeveloped. The 74.4700 hectares of the said 326.2694 hectares were already developed. Hence, the subject of the request is the 163.4994 hectares only.**⁸⁰

These statements are consistent with Mallow's representation that development of the property "has not been completed given the prevailing economic and market conditions."⁸¹ Contrary to the OP's findings, the records do not show that Lapanday represented that the subject property was "for completion."⁸² Lapanday only stated that the development was not completed.

The latter statement is accurate since development on the whole 326.2694-hectare property had already started. As shown by the findings in the ocular inspection conducted by DAR, Lapanday was already in the process of developing the property for residential purposes. A box factory and concrete road had been constructed.⁸³ The DAR did not also contest the report of Lapanday that 74.4700 hectares were already developed. In *Kasamaka-Canlubang, Inc. v. Laguna Estate Development Corp.*,⁸⁴ the Court noted the OP's basis for its finding that development works were indeed commenced. The OP ruled that road networks, concrete roads, drainage, electrification, and other activities leading to the further development of the properties are satisfactory proof that development has started.

Given the ocular inspection, the DAR was in the best position to determine if Lapanday or Mallow misrepresented the actual status of the property. Had there been no development at all, such fact would have been stated in the ocular inspection report.

That physical development had not yet reached the 48.3007-hectare portion at the time it was transferred to Mallow is not a basis for revocation. There is no requirement that every inch of the property should have structures or developments, or that construction be carried out simultaneously on all portions of the vast property. While the progress of development ultimately depends on the development plan submitted to the DAR, judicial notice may be taken of the fact that developments are usually undertaken in phases.⁸⁵ Thus, it was arbitrary for the OP to expect that there

⁸⁰ *Id.* at 218; emphasis supplied.

⁸¹ *Id.* at 227.

⁸² *Id.* at 402.

⁸³ *Id.* at 220-221.

⁸⁴ 735 Phil. 648 (2014) [Per J. Peralta].

⁸⁵ See *Kasamaka-Canlubang, Inc. v. Laguna Estate Development Corp.*, *supra* at note 75, citing the OP:

be improvements on the ceded 48.3007-hectare portion of the lot,⁸⁶ in the absence of an express undertaking that construction shall be simultaneously undertaken on all portions of the property.

In sum, there is no substantial evidence supporting the findings of the CA and the OP that there was misrepresentation and there were no developments on the property. Similarly, the CA's statement that Lapanday misrepresented its financial and organizational capability did not refer to or cite the records.⁸⁷ The development and financial plans were submitted to and thoroughly studied by DAR. DAR found these in order. In the absence of evidence to the contrary, the findings of DAR must be respected.

The Court notes that the development of the subject property had further progressed since the issuance of the Second Extension. Even before the OP Decision was rendered, the Municipal Agrarian Reform Office (MARO) already certified that the development of the portion transferred to Mallow was in full swing, based on MARO's ocular inspection and investigation.⁸⁸ The whole area had been cleared, and the residential subdivision was to be finished in phases.⁸⁹ In 2015, a license to sell was issued by the Housing and Land Use Regulatory Board, and the property was subdivided for sale on a per unit or lot basis.⁹⁰

These supervening circumstances do not directly bear on the issues of the case. They show, however, that the CA and the OP cannot anchor their finding of misrepresentation on a single statement. The realities on the ground show that developments had started and were continuing during the relevant period.

Mallow complied with the bond requirement for extending the development period

The CA and the OP erred in ruling that Mallow belatedly filed its performance bond. Such conclusion was premised on the use of the word "first" in Section 64 of DAR Administrative Order No. 01-02:

SECTION 64. Effect of Pending Applications. — This Administrative Order shall apply prospectively to all applications for land use conversion. Existing rules shall govern all pending applications for land use conversion. Grantees of previous conversion orders who were not

"It is common knowledge that subdivision developments are usually undertaken in phases."

⁸⁶ *Rollo*, p. 404.

⁸⁷ *Id.* at 135.

⁸⁸ *Id.* at 843.

⁸⁹ *Id.*

⁹⁰ *Id.* at 63-64.

yet able to complete development of properties approved for conversion may request for extension of the development period by first posting a new performance bond in accordance with Sections 23 to 26 of this Administrative Order.

The provision should be construed in relation to the cited Sections 23 and 26 of the same Administrative Order. Sections 23 to 26 provide for two (2) types of bonds: (1) bond to guarantee against premature conversion; and (2) performance bond. The first type of bond is posted upon filing an application for conversion to ensure that no conversion activity will be conducted prior to the approval of the application.⁹¹ The second type of bond is posted within five (5) days from receipt of the conversion order.⁹² A performance bond guarantees the development of the land and/or compliance with the conditions imposed in the conversion order.⁹³ When interpreted in relation to the cited Sections, it becomes apparent that the use of the word “first” only underscores the necessity of posting a new bond before the extension can take effect.

In this case, the bond to guarantee against premature conversion is clearly inapplicable since the land had already been converted and the Conversion Order was still in effect. Posting a bond upon the filing of a motion for extension will not guarantee any undertaking. Clearly, the applicable provision is that pertaining to performance bonds, which are posted after the issuance of the conversion order. Thus, DAR correctly ordered the posting of the performance bond five (5) days from receipt of the Second Extension Order.

It is undisputed that Mallow had already posted the required bond in the amount of PhP4,221,904 even before it received the Second Extension Order.⁹⁴ Thus, the requirement under DAR Administrative Order No. 01-02 and the Second Extension Order was met.

Moreover, even assuming that DAR and Mallow incorrectly applied the provisions on posting of a bond, DAR Administrative Order No. 01-02 does not state that revocation of the Conversion Order is the penalty for belatedly filing a bond.

We find no need to rule on the fifth issue raised since, as discussed, the Conversion Order is already final. Thus, the finding of the DAR that the property is suitable for non-agricultural purposes may no longer be disturbed.

⁹¹ DAR Administrative Order No. 01-02, Secs. 23 and 24.

⁹² *Id.* at Sec. 26.

⁹³ *Id.* .

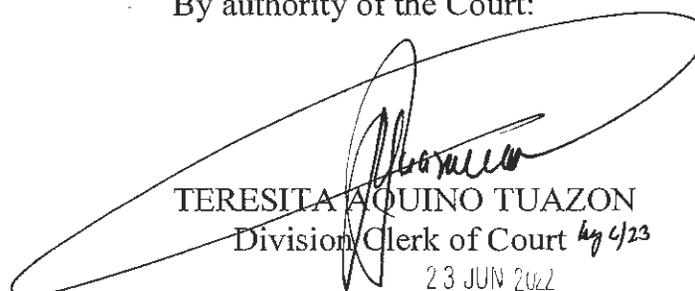
⁹⁴ *Rollo*, p. 240.

As the reversal of the Second Extension Order and the revocation of the Conversion Order were not supported by substantial evidence, the Second Extension Order must be reinstated.

WHEREFORE, premises considered, the petition is **GRANTED**. The assailed Decision dated 28 November 2019 and Resolution dated 25 August 2020 of the Court of Appeals in CA-G.R. SP. No. 160249 are **REVERSED** and **SET ASIDE**. The Decision dated 15 June 2015 and Resolution dated 06 March 2019 of the Office of the President in OP Case No. 09-1-460 are likewise **REVERSED** and **SET ASIDE**. The Order dated 14 March 2008 docketed as DARCO Order No. EXT-0803-138, series of 2008 issued by the Secretary of Agrarian Reform is **REINSTATED**.

SO ORDERED.”

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court *by 4/23*
23 JUN 2022

ANGARA ABELLO CONCEPCION
REGALA & CRUZ (reg)
Counsel for Petitioners
22nd Floor, ACCRALAW Tower
2nd Avenue corner 30th Street
Crescent Park West, Bonifacio Global City
1635 Taguig, Metro Manila

MANRIQUEZ, ORCULLO & ASSOCIATES (reg)
Counsel for Respondent
Room 1-G, Anda Corporate Center
Anda St., 8000 Davao City

DEPARTMENT OF AGRARIAN REFORM (reg)
Elliptical Road, Diliman
1101 Quezon City

OFFICE OF THE PRESIDENT (reg)
Malacañang Palace
1000 J.P. Laurel St., San Miguel
1005 Manila
(OP Case No. 09-1-460)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP No. 160249

Please notify the Court of any change in your address.
GR253456. 2/23/2022(254)URES