



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RAMONITO O. ACAAC, PETAL
FOUNDATION, INC.,
APOLINARIO M. ELORDE,
HECTOR ACAAC, and ROMEO
BULAWIN,

Petitioners,

- versus -

MELQUIADES D. AZCUNA, JR.,
in his capacity as Mayor, and
MARIETES B. BONALOS, in her
capacity as Municipal Engineer and
Building Official-Designate, both of
Lopez Jaena Municipality, Misamis
Occidental,

Respondents.

G.R. No. 187378

Present:

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

SEP 30 2013

X-----X

RESOLUTION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated September 30, 2008 and Resolution³ dated March 9, 2009 of the Court of Appeals (CA) in CA-G.R. CV No. 00284-MIN which reversed and set aside the Decision⁴ dated November 26, 2004 of the Regional Trial Court of Oroquieta City, Branch 2 (RTC) in Civil Case No. 4684 for injunction.

¹ Rollo, pp. 9-22.

² Id. at 31-46. Penned by Associate Justice Ruben C. Ayson, with Associate Justices Rodrigo F. Lim, Jr. and Michael P. Elbinias, concurring.

³ Id. at 25-29.

⁴ Id. at 55-71. Penned by Judge Bernadette S. Paredes-Encinareal.

The Facts

Petitioner People's Eco-Tourism and Livelihood Foundation, Inc. (PETAL) is a non-governmental organization, founded by petitioner Ramonito O. Acaac, which is engaged in the protection and conservation of ecology, tourism, and livelihood projects within Misamis Occidental.⁵ In line with its objectives, PETAL built some cottages made of indigenous materials on Capayas Island (a 1,605 square meter islet) in 1995 as well as a seminar cottage in 2001⁶ which it rented out to the public and became the source of livelihood of its beneficiaries,⁷ among whom are petitioners Hector Acaac and Romeo Bulawin.

On April 11 and May 20, 2002, however, respondents Mayor Melquiades D. Azcuna, Jr. (Azcuna) and Building Official Marietes B. Bonalos issued separate Notices of Illegal Construction against PETAL for its failure to apply for a building permit prior to the construction of its buildings in violation of Presidential Decree No. 1096,⁸ otherwise known as the "National Building Code of the Philippines," ordering it to stop all illegal building activities on Capayas Island. When PETAL failed to comply with the requirements for the issuance of a building permit, a Third and Final Notice of Illegal Construction was issued by respondents against it on July 8, 2002,⁹ but still the same remained unheeded.

It was also on July 8, 2002 that the Sangguniang Bayan of Lopez Jaena (SB) adopted Municipal Ordinance No. 02, Series of 2002¹⁰ (subject ordinance) which prohibited, among others: (a) the entry of any entity, association, corporation or organization inside the sanctuaries;¹¹ and (b) the construction of any structures, permanent or temporary, on the premises, except if authorized by the local government.¹² On July 12, 2002, Azcuna approved the subject ordinance; hence, the same was submitted to the Sangguniang Panlalawigan of Misamis Occidental (SP), which in turn, conducted a joint hearing on the matter. Thereafter, notices were posted at the designated areas, including Capayas Island, declaring the premises as government property and prohibiting ingress and egress thereto.¹³

⁵ Id. at 32.

⁶ Id. at 11.

⁷ Id. at 32-33.

⁸ "ADOPTING A NATIONAL BUILDING CODE OF THE PHILIPPINES (NBCP) THEREBY REVISING REPUBLIC ACT NUMBERED SIXTY-FIVE HUNDRED FORTY-ONE (R.A. No. 6541)."

⁹ *Rollo*, p. 34.

¹⁰ Records, pp. 28-29. Entitled "AN ORDINANCE ESTABLISHING CAPAYAS ISLAND AND ITS SURROUNDINGS, MANSABAY BAJO AND SIBULA AS BIRDS, FISH AND SHELLS SANCTUARY LOCATED WITHIN THE MUNICIPAL WATERS OF LOPEZ JAENA WITH A TOTAL AREA OF SIXTY THREE POINT ONE HUNDRED NINETY SEVEN (63.197) HECTARES, THREE (3) HECTARES AND THREE (3) HECTARES RESPECTIVELY."

¹¹ *Rollo*, pp. 33-34.

¹² Records, p. 28. See subject ordinance.

¹³ *Rollo*, pp. 34-35.

On August 23, 2002, a Notice of Voluntary Demolition was served upon PETAL directing it to remove the structures it built on Capayas Island. Among the reasons cited was its violation of the subject ordinance. A similar notice was also served against individual petitioners on October 25, 2002.¹⁴

On October 29, 2002, petitioners filed an action praying for the issuance of a temporary restraining order, injunction and damages¹⁵ against respondents before the RTC, docketed as Civil Case No. 4684, alleging that they have prior vested rights to occupy and utilize Capayas Island. PETAL claimed that its predecessors-in-interest have been in possession thereof since 1961, with whom it entered into a Memorandum of Agreement for the operation of the said island as a camping, tourism, and recreational resort; thus, the issuance of the subject ordinance was prejudicial to their interest as they were deprived of their livelihood. Moreover, PETAL assailed the validity of the subject ordinance on the following grounds: (a) it was adopted without public consultation; (b) it was not published in a newspaper of general circulation in the province as required by Republic Act No. 7160,¹⁶ otherwise known as “The Local Government Code of 1991” (LGC); and (c) it was not approved by the SP. Therefore, its implementation should be enjoined.¹⁷

In their Answer,¹⁸ respondents averred that petitioners have no cause of action against them since they are not the lawful owners or lessees of Capayas Island, which was classified as timberland and property belonging to the public domain. Further, they maintained that they have complied with all the publication and hearing requirements for the passage of the subject ordinance, which was deemed approved by operation of law for failure of the SP to take any positive action thereon as provided under the LGC. As such, it is valid and enforceable.

The RTC Ruling

On November 26, 2004, the RTC rendered a Decision¹⁹ declaring the subject ordinance as invalid/void based on the following grounds: (a) PETAL’s protest has not been resolved and that the subject ordinance was not duly approved by the SP; (b) the said ordinance was not published in a newspaper of general circulation nor was it posted in public places; (c) Capayas Island is classified as timberland, hence, not suited to be a bird or fish sanctuary; and (d) the authority and control over timberlands belong to the national government, through the Department of Environment and Natural Resources (DENR).²⁰ Based on the foregoing, respondents were

¹⁴ Id. at 35.

¹⁵ Id. at 36.

¹⁶ “AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991.”

¹⁷ Records, p. 5.

¹⁸ Id. at 76-81.

¹⁹ *Rollo*, pp. 55-71.

²⁰ Id. at 67-68.

ordered, among others, to desist from closing Capayas Island to the public.²¹ However, the petitioners were ordered to remove the structures they built thereon without valid building permits²² since they were found to have no title over the disputed property.²³

Aggrieved, respondents appealed the foregoing pronouncement before the CA, docketed as CA-G.R. CV No. 00284-MIN.

The Proceedings Before the CA

On September 30, 2008, the CA rendered a Decision²⁴ granting respondents' appeal.

Contrary to the RTC's ruling, it held that the subject ordinance was deemed approved upon failure of the SP to declare the same invalid within 30 days after its submission in accordance with Section 56 of the LGC.²⁵ It also gave credence to Azcuna's testimony that the subject ordinance was posted and published in conspicuous places in their municipality, and in the bulletin board.²⁶ Moreover, public consultations were conducted with various groups before the subject ordinance was passed.²⁷ The CA further ruled that the Municipality of Lopez Jaena was vested with sufficient power and authority to pass and adopt the subject ordinance under Section 447 in relation to Section 16 of the LGC.²⁸ Therefore, it is not only the DENR that could create and administer sanctuaries.²⁹ Having enacted the subject ordinance within its powers as a municipality and in accordance with the procedure prescribed by law, the CA pronounced that the subject ordinance is valid.³⁰

On the other hand, the CA upheld the RTC's finding that petitioners have no proprietary rights over the Capayas Island, thereby rendering their action for injunction improper.³¹

Petitioners' motion for reconsideration³² therefrom was denied by the CA in a Resolution³³ dated March 9, 2009. Hence, the instant petition.

²¹ Id. at 71.

²² Id.

²³ Id. at 70.

²⁴ Id. at 31-46.

²⁵ Id. at 39-40.

²⁶ Id. at 40-41.

²⁷ Id. at 43.

²⁸ Id. at 42.

²⁹ Id. at 43.

³⁰ Id. at 42-43.

³¹ Id. at 45.

³² Id. at 47-53.

³³ Id. at 25-29.

The Issue Before the Court

The essential issue in this case is whether or not the subject ordinance is valid and enforceable against petitioners.³⁴

The Court's Ruling

The petition lacks merit.

Section 56 of the LGC provides:

SEC. 56. Review of Component City and Municipal Ordinances or Resolutions by the Sangguniang Panlalawigan. – (a) Within three (3) days after approval, the secretary to the Sangguniang Panlungsod or Sangguniang Bayan shall forward to the Sangguniang Panlalawigan for review, copies of approved ordinances and the resolutions approving the local development plans and public investment programs formulated by the local development councils.

(b) Within thirty (30) days after receipt of copies of such ordinances and resolutions, the Sangguniang Panlalawigan shall examine the documents or transmit them to the provincial attorney, or if there be none, to the provincial prosecutor for prompt examination. The provincial attorney or provincial prosecutor shall, within a period of ten (10) days from receipt of the documents, inform the Sangguniang Panlalawigan in writing his comments or recommendations, which may be considered by the Sangguniang Panlalawigan in making its decision.

(c) If the Sangguniang Panlalawigan finds that such an ordinance or resolution is beyond the power conferred upon the Sangguniang Panlungsod or Sangguniang Bayan concerned, it shall declare such ordinance or resolution invalid in whole or in part. The Sangguniang Panlalawigan shall enter its action in the minutes and shall advise the corresponding city or municipal authorities of the action it has taken.

(d) If no action has been taken by the Sangguniang Panlalawigan within thirty (30) days after submission of such an ordinance or resolution, the same shall be presumed consistent with law and therefore valid.

In this case, petitioners maintain that the subject ordinance cannot be deemed approved through the mere passage of time considering that the same is still pending with the Committee on Fisheries and Aquatic Resources of the SP.³⁵ It, however, bears to note that more than 30 days have already elapsed from the time the said ordinance was submitted to the latter for review by the SB;³⁶ hence, it should be deemed approved and valid

³⁴ Id. at 13.

³⁵ See id. at 14-15.

³⁶ Id. at 14.

pursuant to Section 56 (d) above. As properly observed by the CA:

Par. (d) should be read in conjunction with par. (c), in order to arrive at the meaning of the disputed word, “action.” It is clear, based on the foregoing provision, that the action that must be entered in the minutes of the sangguniang panlalawigan is the declaration of the sangguniang panlalawigan that the ordinance is invalid in whole or in part. x x x.

This construction would be more in consonance with the rule of statutory construction that the parts of a statute must be read together in such a manner as to give effect to all of them and that such parts shall not be construed as contradicting each other. x x x laws are given a reasonable construction such that apparently conflicting provisions are allowed to stand and given effect by reconciling them, reference being had to the moving spirit behind the enactment of the statute.³⁷

Neither can the Court give credence to petitioners’ contentions that the subject ordinance was not published nor posted in accordance with the provisions of the LGC.³⁸ It is noteworthy that petitioners’ own evidence reveals that a public hearing³⁹ was conducted prior to the promulgation of the subject ordinance. Moreover, other than their bare allegations, petitioners failed to present any evidence to show that no publication or posting of the subject ordinance was made. In contrast, Azcuna had testified that they have complied with the publication and posting requirements.⁴⁰ While it is true that he likewise failed to submit any other evidence thereon, still, in accordance with the presumption of validity in favor of an ordinance, its constitutionality or legality should be upheld in the absence of any controverting evidence that the procedure prescribed by law was not observed in its enactment. Likewise, petitioners had the burden of proving their own allegation, which they, however, failed to do. In the similar case of *Figuerres v. CA*,⁴¹ citing *United States v. Cristobal*,⁴² the Court upheld the presumptive validity of the ordinance therein despite the lack of controverting evidence on the part of the local government to show that public hearings were conducted in light of: (a) the oppositor’s equal lack of controverting evidence to demonstrate the local government’s non-compliance with the said public hearing; and (b) the fact that the local government’s non-compliance was a negative allegation essential to the oppositor’s cause of action:

³⁷ Id. at 38-39.

³⁸ SEC. 511. Posting and Publication of Ordinances with Penal Sanctions. – (a) ordinances with penal sanctions shall be posted at prominent places in the provincial capitol, city, municipal or Barangay hall, as the case may be, for a minimum period of three (3) consecutive weeks. Such ordinances shall also be published in a newspaper of general circulation, where available, within the territorial jurisdiction of the local government unit concerned, except in the case of Barangay ordinances. Unless otherwise provided therein, said ordinances shall take effect on the day following its publication, or at the end of the period of posting, whichever occurs later.

x x x x

³⁹ Records, p. 60. A “dialogue-consultation” was conducted by the SB on June 13, 2002.

⁴⁰ *Rollo*, pp. 40-41.

⁴¹ 364 Phil. 683(1999).

⁴² 34 Phil. 825 (1916).

However, it is noteworthy that apart from her bare assertions, petitioner Figuerres has not presented any evidence to show that no public hearings were conducted prior to the enactment of the ordinances in question. On the other hand, the Municipality of Mandaluyong claims that public hearings were indeed conducted before the subject ordinances were adopted, although it likewise failed to submit any evidence to establish this allegation. **However, in accordance with the presumption of validity in favor of an ordinance, their constitutionality or legality should be upheld in the absence of evidence showing that the procedure prescribed by law was not observed in their enactment.** In an analogous case, *United States v. Cristobal*, it was alleged that the ordinance making it a crime for anyone to obstruct waterways had not been submitted by the provincial board as required by §§2232-2233 of the Administrative Code. In rejecting this contention, the Court held:

From the judgment of the Court of First Instance the defendant appealed to this court upon the theory that the ordinance in question was adopted without authority on the part of the municipality and was therefore unconstitutional. The appellant argues that there was no proof adduced during the trial of the cause showing that said ordinance had been approved by the provincial board. Considering the provisions of law that it is the duty of the provincial board to approve or disapprove ordinances adopted by the municipal councils of the different municipalities, we will assume, in the absence of proof to the contrary, that the law has been complied with. **We have a right to assume that officials have done that which the law requires them to do, in the absence of positive proof to the contrary.**

Furthermore, the lack of a public hearing is a negative allegation essential to petitioner's cause of action in the present case. Hence, as petitioner is the party asserting it, she has the burden of proof. Since petitioner failed to rebut the presumption of validity in favor of the subject ordinances and to discharge the burden of proving that no public hearings were conducted prior to the enactment thereof, we are constrained to uphold their constitutionality or legality.⁴³ (Emphases supplied, citation omitted)

All told, the Court finds no reversible error committed by the CA in upholding the validity of the subject ordinance.


In any event, petitioners have not shown any valid title⁴⁴ to the property in dispute to be entitled to its possession. Besides, the RTC's order directing the removal of the structures built by petitioners on Capayas Island without building permits was not appealed. As such, the same should now be deemed as final and conclusive upon them.

⁴³ *Figuerres v. CA*, supra note 41, at 692-693.


⁴⁴ *Rollo*, p. 70.

WHEREFORE, the petition is **DENIED**. The Decision dated September 30, 2008 and Resolution dated March 9, 2009 of the Court of Appeals in CA-G.R. CV No. 00284-MIN are hereby **AFFIRMED**.

SO ORDERED.



ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice