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Republic of the Philippines
Supreme Court
Manila

FEB 22 2021

THIRD DIVISION

EULOGIO ALDE,

Petitioner,

G.R. No. 214981

Present:

-versus-

LEONEN, J.,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
ROSARIO, JJ.

**CITY OF ZAMBOANGA, as
represented by CITY MAYOR
CELSO L. LOBREGAT,**
Respondent.

Promulgated:

November 4, 2020

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DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the February 27, 2014 Decision² and the September 26, 2014 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 04147-MIN.

The Antecedents

Petitioner Eulogio Alde (Alde) filed a Miscellaneous Lease Application (MLA) No. 097332-10 covering two (2) lots with the Community Environment and Natural Resources Office (CENRO), Region IX, Zamboanga City, on February 9, 2001.⁴ With a combined area of Eight Hundred and Five (805) square meters, the two lots were covered by Transfer Certificates of

¹ *Rollo*, pp. 15-34.

² *Id.* at 37-47; penned by Associate Justice Renato C. Francisco and concurred in by Associate Justices Romulo V. Borja and Oscar V. Badelles.

³ *Id.* at 49-56; penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Romulo V. Borja and Edgardo T. Lloren.

⁴ *Id.* at 57.

Title (TCT) Nos. T-7301⁵ and T-7300,⁶ both in the name of the Republic. These lots were originally leased by the now defunct Bureau of Buildings and Real Property Management, Department of General Services to a certain Clarita Chan for a period of twenty (20) years, or until July 17, 1994. Subsequently, Executive Order (EO) No. 285, Series of 1987⁷ was issued transferring the control and possession of the lots to the Department of Environment and Natural Resources (DENR).⁸

On May 14, 2002, the Office of the Regional Executive Director (RED) of the DENR-Region IX, Zamboanga City, ordered the appraisal of the subject lots covered by the MLA.⁹ On May 17, 2002, the Appraisal Committee reported that the lots are classified as commercial properties in the Zoning Ordinance under Department Order No. 145-95¹⁰ of the Department of Finance. The Appraisal Committee reported an appraised value of ₱6,800.00 per square meter or ₱6,475,000.00 for the entire 805 square meters.¹¹ In addition, it determined the rental rate per *annum* at ₱174,250.00 representing three percent (3%) of the value of the land and one percent (1%) of the proposed improvements, in accordance with Section 37¹² of Commonwealth Act (CA) No. 141 or "The Public Land Act".¹³

⁵ *CA rollo*, p. 64.

⁶ *Id.* at 63.

⁷ Entitled as "*Abolishing The General Services Administration and Transferring Its Functions To Appropriate Government Agencies.*" Approved on July 25, 1987. The relevant provisions is as follows:

"Section 3. *Building Services and Real Property Management Office.* The functions of the Building Service and Real Property Management Office are hereby transferred, as follows:

x x x x

2. To The Department of Environment and Natural Resources.

a. Custody and administration of commercial, industrial and urban properties under the management of the abolished Building Services and Real Property Management Office;

b. Sale, lease, rental or transfer of these commercial, industrial and urban lands.

⁸ *CA rollo*, p. 49 and 103-104.

⁹ *Id.* at 50.

¹⁰ *Id.* at 104.

¹¹ *Id.*

¹² SEC. 37. The annual rental of the land leased shall not be less than three *per centum* of the value of the land, according to the appraisal and reappraisal made in accordance with Section one hundred sixteen of this Act; except for lands reclaimed by the Government, which shall not be less than four *per centum* of the appraised and reappraised value of the land: *Provided*, That one-fourth of the annual rental of these lands reclaimed prior to the approval of this Act shall accrue to the construction and improvement portion of the Portworks Fund: *And provided, further*, That the annual rental of not less than four *per centum* of the appraised and reappraised value of the lands reclaimed using the Portworks Fund after the approval of this Act shall all accrue to the construction and improvement portion of the Portworks Fund. But if the land leased is adapted to and be devoted for grazing purposes, the annual rental shall be not less than two *per centum* of the appraised and reappraised value thereof. Every contract of lease under the provisions of this chapter shall contain a clause to the effect that a reappraisal of the land leased shall be made every ten years from the date of the approval of the lease, if the term of the same shall be in excess of ten years. In case the lessee is not agreeable to the reappraisal and prefers to give up his contract of lease, he shall notify the Director of Lands of his desire within the six months next preceding the date on which the reappraisal takes effect, and in case his request is approved, the Director of Lands may, if the lessee should so desire, proceed in accordance with Section one hundred of this Act. (As amended by Rep. Act. No. 2694, An Act to Amend Certain Provisions of Sections Thirty-Seven and Sixty-four of Commonwealth Act Numbered One Hundred Forty-One. Approved June 18, 1960.)

¹³ Approved on November 7, 1936.

Ruling of the RED-DENR Region IX:

On May 23, 2002, the RED of DENR-Region IX approved the abovementioned appraisal and granted the authority to lease the land in accordance with the Public Land Act.¹⁴

Thereafter, the Chief of the Land Management Division issued a Notice of Lease for purposes of bidding the subject lots. The Notice of Lease over the subject lots was published by the National Printing Office in the *Official Gazette* as evidenced by a Certificate of Publication dated October 11, 2002;¹⁵ and in a newspaper called *Zamboanga Star*, which was posted at the *barangay* hall where the subject lots are located. Alde, the lone bidder, was declared as winner after submitting a bid of ₱174,250.00. As the winner, he paid ten percent (10%) of the bid price.¹⁶

On July 4, 2002, the CENRO of the DENR referred to the Department of Public Works and Highways (DPWH) the matter of determining whether the subject lots are needed by the Government for public use.¹⁷ The Regional Director of the DPWH interposed no objection to the approval of the MLA.

In turn, on November 28, 2002, the Secretary of the DPWH endorsed Alde's MLA to the RED DENR-Region IX interposing no objection to Alde's MLA, provided "that 4.0 meters from the edge of the sidewalk be reserved for future widening/improvements of the National Government".¹⁸

Thus, on July 2, 2003, the RED DENR-Region IX issued an Order of Award¹⁹ for the lease of the subject lots in favor of Alde.

The respondent City Government of Zamboanga objected to the lease application of Alde over the subject lots. In two letters dated August 18, 2003 and September 10, 2003, the City Government of Zamboanga claimed that the awarded lots were needed for public use and that the posting and publication requirements of the notice of lease, were not complied with.²⁰ The City Government of Zamboanga sent another letter of opposition to the DENR Secretary dated October 13, 2003.²¹

¹⁴ *Rollo*, p. 59.

¹⁵ *CA rollo*, p. 86.

¹⁶ *Id.* at 104.

¹⁷ *Rollo*, pp. 57-58.

¹⁸ *CA rollo*, p. 85.

¹⁹ *Id.* at 65-66.

²⁰ *Id.* at 105.

²¹ *Id.* at 67-70.

On November 12, 2003, the City Government of Zamboanga eventually filed a verified Opposition²² with the DENR Regional Office IX which was docketed as DENR Case No. 8361. A Committee was then created to investigate the pending controversy by virtue of Regional Special Order No. 184 issued on September 3, 2004.²³

On March 1, 2005, the Committee submitted an Investigation Report to the RED DENR-Region IX, recommending the dismissal of the Opposition of the City Government and for the MLA of Alde to be given due course.²⁴ The pertinent portions of that Investigation Report read:

The DPWH Regional Office interposed no objection on (sic) the application of Eulogio Alde, as to whether there is intention of (sic) of the Government to use the land for government purposes, and the Office of the Secretary DPWH, concurred with the opinion of the Regional Office.

Records would also show that before the Bidding, there [was] no objection/opposition filed on record by any Governmental Agency.

The Committee therefore believes and so holds that the land subject of the case is not intended for governmental purposes.

x x x x

The Committee after scrutiny and verification of the records believes and so holds the process under RA (Act) 3038 were (sic) properly observed, especially in the Notice and Publication of the Application.²⁵

Ruling of the DENR Secretary:

The City Government of Zamboanga appealed its case to the DENR Secretary. On May 27, 2007, the DENR Secretary issued a Decision²⁶ in DENR Case No. 8361, denying the Opposition filed by the City Government of Zamboanga and giving due course to the Order of Award to Alde, *viz.*:

Records of the investigation reveal that the requirements relative to publication and posting have been complied with. Such findings, along with the presumption of regularity afforded to public officials in the performance of their official functions, cannot be overcome by general statements of the City denying compliance of said requirements and unsupported by any specific and concrete evidence. This Office also disagrees with the contention that specific notice should have been made to the City as no such requirement appears in the law.

²² Id. at 71-81.

²³ Id. at 105.

²⁴ Id. at 52-53.

²⁵ Id. at 53.

²⁶ Id. at 49-57.

As to the actual conduct of the bidding itself, the Minutes of the Bidding show compliance with the prescribed procedures of the law.

Anent the appraisal of the property, the Appraisal Committee (created pursuant to DAO 98-20) reported the value of the land and improvements at Six Million Four Hundred Seventy[-]Five Thousand Pesos (Php 6, 475, 000.00) and One Million Pesos (Php1,000,000.00), respectively. Based on such valuations, the Committee then recommended that the minimum annual rental of the land be set at One Hundred Seventy[-]Four Thousand Two Hundred Fifty Pesos (Php174,250.00).

Sec. 64 (a), Chapter IX, Title III of the Public Land Act provides that the leases executed thereunder shall not be less than three (3) per centum of the appraised or reappraised value of the land plus one (1) per centum of the appraised or reappraised value of the improvements.

Upon computation, this Office holds the minimum rental rate submitted by the Committee and consequently, the bid made by Applicant and accepted by the same Committee, to be valid as within the required limitations provided for by law.²⁷

Subsequently, the City Government of Zamboanga filed a Motion for Reconsideration but it was denied by the DENR in an Order dated July 29, 2009, for being *pro forma*.²⁸

Thereafter, the City Government of Zamboanga filed an appeal with the Office of the President (OP).

Ruling of the Office of the President:

In its Decision²⁹ in O.P. Case No. 09-I-423 dated June 18, 2010 and Resolution³⁰ dated March 1, 2011 the OP affirmed the May 27, 2007 Decision and the July 29, 2009 Order of the DENR Secretary giving due course to the Order of Award to Alde.

The OP affirmed the ruling of the DENR that the commercial classification of the subject lots is based on EO No. 285 of 1987 and that the DENR's control and disposition over the subject properties are based also on Sections 3³¹ and 4³² of the Public Land Act.

²⁷ Id. at 56.

²⁸ Id. at 106.

²⁹ Id. at 42-48.

³⁰ Id. at 40-41.

³¹ Section 3. The Secretary of Agriculture [now Environment] and Natural Resources shall be the executive officer charged with carrying out the provisions of this Act through the Director of Lands, who shall act under his immediate control.

³² Section 4. Subject to said control, the Director of Lands shall have direct executive control of the survey, classification, lease, sale or any other form of concession or disposition and management of the lands of the public domain, and his decisions as to questions of fact shall be conclusive when approved by the Secretary of Agriculture [now Environment] and Natural Resources.

Citing Sections 58,³³ 59,³⁴ and 61³⁵ of the Public Land Act, the OP held that the subject lots do not fall under paragraphs (a), (b), or (c) of Section 59, but under paragraph (d), *i.e.*, “lands not included in any of the foregoing classes.” Accordingly, the OP ratiocinated that:

[T]he subject lots may be disposed of by lease even without a prior declaration of non-necessity for public service considering that such is not a condition *sine qua non* before disposition of lands falling under paragraph (d) may be made. Clearly evident from Section 61 afore-cited is that, unlike lands classified under (a), (b) and (c) of Section 59 which needs a declaration that the land is not necessary for public service prior to disposition, no such requirement is provided for lands included in class (d), as subject lots herein.

Thus, and contrary to the [City of Zamboanga’s] contention, a declaration that the disputed lots are not required for public service is not a prerequisite to the disposition of the same by lease.

Besides, it is worthy to note that the record of the case bears out the fact that the subject lots were and are not intended for public purposes. One, the lots were already the subject of a previous lease spanning twenty (20) years. Two, the DPWH interposed no objection to the lease application after determining that there is no intention of using the subject lots for a government purpose. And three, there is no showing that, prior to the bidding, any government agency or instrumentality, or any local government unit such as the appellant herein, filed an objection/opposition to the lease application.³⁶

With the dismissal of its appeal and denial of its Motion for Reconsideration by the OP in its March 1, 2011 Resolution,³⁷ the City Government of Zamboanga filed a Petition for Review under Rule 43 of the Rules of Court with the CA.

The Ruling of the Court of Appeals:

In its Petition for Review filed with the CA, the respondent raised the following issues: 1) whether the disposition of public lands, such as through sale, lease, etc., under the Public Land Act, applies when the real property is

³³ Section 58, Any tract of land of the public domain which, being neither timber nor mineral land, is intended to be used for residential purposes or for commercial, industrial, or other productive purposes other than agricultural, and is open to disposition or concession, shall be disposed of under the provisions of this Chapter and not otherwise.

³⁴ Section 59. The lands disposable under this Title shall be classified as follows:

(a) Lands reclaimed by the Government by dredging, filling, or other means;

(b) Foreshore;

(c) Marshy lands or lands covered with water bordering upon the shores or banks of navigable lakes or rivers;

(d) Lands not included in any of the foregoing classes.

³⁵ Section 61. The lands comprised in classes (a), (b), and (c) of Section fifty-nine shall be disposed of to private parties by lease only and not otherwise, as soon as the President, upon recommendation by the Secretary of Agricultural [now Environment] and Natural Resources, shall declare that the same are not necessary for public service and are open to disposition under this Chapter. The lands included in class (d) may be disposed of by sale or lease under the provisions of this Act.

³⁶ *CA rollo*, pp. 46-47.

³⁷ *Id.* at 40-41.

already titled in the name of the Republic; and, 2) whether the Land Management Bureau (LMB)-DENR-Regional Office (RO)-IX has the power and jurisdiction to entertain and give due course to Alde's MLA considering that the two parcels of lands are already titled in the name of the Republic and covered by TCT No. T-7300 and TCT No. T-7301.³⁸

In its assailed Decision, the appellate court ruled in favor of respondent City of Zamboanga. It reversed and set aside the June 18, 2010 Decision of the OP. It also declared as null and void the Order of Award by the RED-DENR Region IX dated July 2, 2003 for having been issued in excess or lack of jurisdiction.³⁹

The appellate court ruled in this wise:

Initially, the authority to sell or lease land of private domain of the National Government was vested in the Office of the now defunct Secretary of Agriculture and Natural Resources pursuant to **Act No. 3038**.

Meanwhile, the creation of the General Services Administration vested the Building Services and Real Property Management Office the custody and administration of the properties owned by the National Government. However, upon the enactment of Executive Order 285 of 1987, these functions were transferred to the Department of Environment and Natural Resources, thus:

Section 3. Building Services and Real Property Management Office. The functions of the Building Services and Real Property Management Office are hereby transferred as follows:

1. x x x
2. **To The Department of Environment and Natural Resources.**
 - a. Custody and administration of commercial, industrial and urban properties under the management of the abolished Building Services and Real Property Management Office;
 - b. Sale, lease, rental or transfer of these commercial, industrial and urban lands.

x x x

Having been conferred with the aforementioned authority, the DENR clearly possesses jurisdiction to accept application for lease over the subject properties which was classified as commercial lands.

Question now arises, which law should DENR apply in order to dispose these kinds of lands, either by sale or lease?

Act 3038 provides that the lease of land of private domain of the Government, not otherwise agricultural, shall be in conformity of the Chapter IX with the Public Land Act. Section 2 of Act 3038 states in particular:

Section 2. **The sale or lease of the land** referred to in the preceding section **shall**, if such land is agricultural, **be made in the**

³⁸ *Rollo*, p. 41.

³⁹ *Id.* at 46.

manner and subject to the limitations prescribed in chapter five and six, respectively, of said Public Land Act, and if it be classified differently in conformity with the provisions of chapter nine of said Act: Provided, however, that the land necessary for the public service shall be exempt from the provisions of this Act.

Without doubt, the provision on Chapter IX of the Public Land Act (Commonwealth Act No. 141) shall govern the proper disposal of lands owned by the Government.

Under the aforequoted provision, land of private domain of the Government which is necessary for public service cannot be made a subject of a sale or lease. It is only when the land is declared as *not necessary for public service* that it may be made available either for sale or lease. It is therefore imperative that before a government-owned land be disposed of, a proclamation/declaration to such effect must first be secured.

Who, then, has the power to declare government-owned land open for disposition as it is not necessary for public service?

Section 61 specifically states:

Sec. 61. The lands comprised in classes (a), (b), and (c) of section fifty-nine shall be disposed of to private [parties] by lease only and not otherwise, as soon as the President, upon recommendation by the Secretary of Agriculture, shall declare that the same are not necessary for the public service and are open to disposition under this chapter. The lands included in class (d) may be disposed of by sale or lease under the provisions of this Act.

The findings of the Office of the President [in the] instant case, however, say that no such declaration is needed in the instant case. The Office of the President ratiocinated that the subject properties, being classified already as commercial property, thus fell under class (d) of the classification made in Section 59 of the Public Land Act that does not need proclamation to that effect. Section 59 provides:

Section 59. The lands disposable under this title shall be classified as follows:

- (a) Lands reclaimed by the Government by dredging, filing, or other means;
- (b) Foreshore;
- (c) Marshy lands or lands covered with water bordering upon the shores or banks of navigable lakes or rivers;
- (d) Land not included in any of the foregoing classes.

The assailed findings of the Office of the President are clearly not in accord with the law- the Public Land Act. Moreover, the interpretation of the Office of the President on Section 61 of the Public Land Act that certain [classes] of lands need no more proclamation – that the land is not necessary for public service- is absurd.

Previous Presidential Proclamations by virtue of which the President of the Philippines specifically declared government-owned land open for

disposition had sustained this requirement of the proclamation of non-necessity for public purpose.

Also, Section 61, as afore-quoted, states how the lands classified in Section 59 may be disposed of. The provision did not specifically discard the requirement of presidential proclamation that the same are not intended for public service.

Section 61 even emphasized that class (d) of the classification may be disposed either by sale or lease, however, such disposal must still be made in accordance with the provisions of the Public Land Act. The Public Land Act necessitates the presidential proclamation that the land sought to be disposed of is not intended for public service.

Incidentally this presidential proclamation requirement is further reinforced in Section 63 thereof which says:

Whenever it is decided that lands covered by this chapter are not needed for public purposes, the Director of Lands shall ask the Secretary of Agriculture and Commerce for authority to dispose of the same. Upon receipt of such authority, the Director of Lands shall give notice by public advertisement in the manner as in the case of leases or sales of agricultural public land, that the Government will lease or sell as the case may be, the lots or blocks specified in the advertisement, for the purpose stated in the notice and subject to the conditions specified in this chapter.

Not only that, this Section 63 is specific that the authority to dispose these lands covered by the Public Land Act can only be done after they are proclaimed as not intended for public purpose.

Since the subject properties fall within the coverage of the Public Land Act by virtue of Act 3038, the required presidential proclamation must then be strictly observed.

It likewise did not escape this Court's notice that the posting and publication required under the Public Land Act had not been complied with.

It is said that the Director of Lands shall give notice by public advertisement in the manner as in the case of leases or sales of agricultural public land. In relation thereto Section 34 states, *a notice of the date and place of the auction of the right to lease the land shall be published and announced in the same manner as that prescribed for the publication and announcement of notice of sale, in section twenty-four (24) of this act.*

In relation thereto, Section 24 partly says:

x x x. The Director of [L]ands shall announce the sale thereof publishing the proper notice **once a week for six consecutive weeks in the Official Gazette, and in two newspapers one published in Manila and the other published in the municipality or in the province where the lands are located, or in a neighboring province,** and the same notice shall be posted on the bulletin board of the Bureau of Lands in Manila, and in the most conspicuous place in the provincial building and the municipal

building of the province and municipality, respectively, where the land is located; and if practicable, on the land itself; x x x

The evidence shows that the publication of the Notice of Lease in a newspaper was made only on July 26, August 2 and 9, all in year 2002; short of three (3) more weeks as mandated in the aforementioned provision.

The disputable presumption of regularity in the performance of official duties does not lie in the present case. This presumption was clearly rebutted by the fact that there is convincing evidence that first, there was no proclamation yet declaring that the subject properties are no longer intended for public purpose, and second the requirements of publication were not complied with.⁴⁰ (Emphasis in the original)

In fine, the CA ruled that a presidential proclamation is necessary to declare that a parcel of public land is not necessary for public service before it can be disposed, even for those lands referred to in Section 59(d) of CA 141.

Alde filed a motion for reconsideration which was denied by the CA in its Resolution dated September 26, 2014.

Hence this Petition.

Our Ruling

The Court grants the Petition.

There is no argument that there must be some sort of a presidential declaration that a piece of land classified under Section 59(d) of the Public Land Act is no longer necessary for public use or public service before it can be leased to private parties or private entities or private corporations. However, we hold that the same need not be exclusively in the form of a presidential proclamation. Any other form of presidential declaration is acceptable.

This Court agrees with the CA that even lands classified under Section 59 (d) of CA 141 must be established as unnecessary for public use or for public service before they can be sold or leased to private parties or entities or private corporations. However, this Court does not subscribe to the absolute necessity of a presidential proclamation for such purposes.

An administrative action by the OP that declares a land under Section 59(d) as alienable and disposable and not necessary for public use or public service, complies with the required Presidential declaration that

⁴⁰ Id. at 42- 46.

alienable and disposable lands are not necessary for public use or for public service before they can be open for sale or lease or disposed, to private parties, entities or corporations

As earlier presented, the CA relied upon Section 63 of the Public Land Act to support its conclusion that lands under Section 59(d) must be proclaimed as “not intended for public purpose” before their disposition is authorized. The appellate court emphasized the words of the statute “[w]henever it is *decided* that lands covered by this chapter are not needed for public purposes”.

For clarity, Section 63 of CA 141 is herein reproduced:

SECTION 63. Whenever it is decided that lands covered by this chapter are not needed for public purposes, the Director of Lands shall ask the Secretary of Agriculture and Commerce for authority to dispose of the same. Upon receipt of such authority, the Director of Lands shall give notice by public advertisement in the same manner as in the case of leases or sales of agricultural public land, that the Government will lease or sell, as the case may be, the lots or blocks specified in the advertisement, for the purpose stated in the notice and subject to the conditions specified in this chapter

We do not agree with the CA’s pronouncement that a presidential proclamation is required. A reading of Section 63 invoked by the appellate court provides room for alternatives.

In *In re: Flordeliza*,⁴¹ the Court ruled that the word *decide* is defined as “to form a definite opinion” or “to render judgment”. We now apply the same in the statute in question. As long as a definite opinion or judgment is rendered that certain alienable or disposable public lands are not needed for public use or public service or even for national wealth, then the legal requirement under Section 63, in relation to Section 61, is deemed complied with. Therefore, this Court infers that when the lawmakers used the word “*decided*” in Section 63, this must be construed to mean that it admits of a legal scenario beyond the stricture of a presidential proclamation requirement, contrary to the finding of the CA.

We hold that Section 63, in relation to Section 61, of CA 141 gives leeway to the President and the DENR Secretary in choosing the manner, mechanism or instrument in which to declare certain alienable or disposable public lands as unnecessary for public use or public service before these are disposed through sale or lease to private parties, entities or corporations.

Hence, all alienable and disposable lands enumerated in Section 59, from

⁴¹ 44 Phil. 614 (1923).

(a) to (d), suitable for residence, commercial, industrial or other productive purposes other than agricultural, under Chapter VIII of the same CA 141, must be subject to a presidential declaration that such are exempt from public use or public service before they can be sold or leased, as the case may be, but such need not be solely through a presidential proclamation.

This Court has time and again ruled that to prove that a public land is alienable and disposable, what must be clearly established is the existence of a positive act of the government. This is not limited to a presidential proclamation. Such fact could additionally be proven through an executive order; an administrative action; investigative reports of Bureau of Lands investigators; and a legislative act or a statute.⁴²

Thus, while we agree with the CA that a presidential edict is required to declare that the subject lots that are classified under Section 59(d) of CA 141 as not necessary for public use or for public service before they can be leased to Alde, however, We disagree that it has to be in the form of a presidential Proclamation.

In the case at bar, the OP, upon the recommendation of the DENR Secretary, validly declared the subject lots disposable through lease, through an administrative action, one of the modes that is expressly recognized for said purpose pursuant to our pronouncement in *Republic v. Jabson*.⁴³ Hence, Alde validly complied with the administrative requirements which led to the issuance of the Order of Award for the Lease by the OP upon the recommendation of the DENR Secretary.

There was substantial compliance with posting and publication requirement.

While the factual findings of the appellate court are binding on this Court, We retain full discretion on whether to review the same.⁴⁴

In this case, the appellate court held that the required posting and publication under the Public Land Act was not complied with.⁴⁵

⁴² *Republic vs. Jabson*, G.R. No. 200223. June 6, 2018, 864 SCRA 391, 405 citing *Fortuna vs. Republic of the Philippines*, 728 Phil. 373, 382-383 (2014).

⁴³ Id.

⁴⁴ *Pascual vs. Burgos*, 776 Phil. 167 (2016).

⁴⁵ SECTION 63, CA 141: Whenever it is decided that lands covered by this Chapter (Chapter IX.- Classification and Concession of Public Lands Suitable for Residence, Commerce and Industry) are not needed for public purposes, the Director of Lands shall ask the Secretary of Agriculture and Natural Resources (now Secretary of Environment and Natural Resources) for authority to dispose of the same. Upon receipt of such authority, the Director of Lands shall give notice by public advertisement in the same manner as in the case of leases or sales of agricultural public land, that the Government will lease or sell, as the case may be, the lots or blocks specified in the advertisement, for the purpose stated in the notice and subject to the conditions specified in this Chapter.

SECTION 34, CA 141: A notice of the date and place of the auction of the right to lease the land shall be published and announced in the same manner as that prescribed for the publication and announcement

We disagree.

The Certificate of Publication issued by the National Printing Office showed that the Notice of Lease issued to Alde was published in the *Official Gazette* for six (6) consecutive weeks, specifically on: 1) September 9, 2002; 2) September 16, 2002; 3) September 23, 2002; 4) September 30, 2002; 5) October 7, 2002 and 6) October 14, 2002.⁴⁶

Moreover, it was published in the provincial newspaper, *Zamboanga Star*, for three (3) consecutive weeks on July 26, 2002, August 2, 2002, and August 9, 2002, as evidenced by an Affidavit subscribed and sworn to by the publisher.⁴⁷

In addition, this Court agrees with Alde that the MLA remains valid even beyond the posting and publication thereof because as an administrative proceeding before the CENRO, it is in the nature of an action *quasi in rem*.

In an action *quasi in rem*, an individual is named as defendant and the purpose of the proceeding is to subject his interests therein to the obligation or loan burdening the property. Actions *quasi in rem* deal with the status, ownership or liability of a particular property but which are intended to operate on these questions only as between the particular parties to the proceedings and not to ascertain or cut off the rights or interests of all possible claimants. The judgments therein are binding only upon the parties who joined in the action.⁴⁸

Thus, the City Government of Zamboanga is not without recourse. It can legally step in and assert its interest after the expiration of the lease awarded to Alde.

In defending its case, it bears noting that the City Government did not present any presidential proclamation, executive order, statute, investigative report by the LMB or an administrative action, that clearly reserved the

of the notice of sale, in Section twenty-four of this Act.

SECTION 24, CA 141: Lands sold under the provisions of this chapter (Chapter V. - Sale) must be appraised in accordance with Section one hundred and sixteen of this Act. The Director of Lands shall announce the sale thereof by publishing the proper notice once a week for six consecutive weeks in the *Official Gazette*, and in two newspapers one published in Manila and the other published in the municipality or in the province where the lands are located, or in a neighboring province, and the same notice shall be posted on the bulletin board of the Bureau of Lands in Manila, and in the most conspicuous place in the provincial building, and the municipal building of the province and municipality, respectively, where the land is located, and, if practicable, on the land itself; but if the value of the land does not exceed two hundred and forty pesos, the publication in the *Official Gazette* and newspapers may be omitted. The notices shall be published one in English and the other (in Spanish or) in the local dialect, and shall fix a date not earlier than sixty days after the date of the notice upon which the land will be awarded to the highest bidder, or public bids will be called for, or other action will be taken as provided in this chapter.

⁴⁶ *CA rollo*, p. 134.

⁴⁷ *Id.*, at 135.

⁴⁸ *San Pedro vs. Ong*, 590 Phil. 781,794 (2008).

subject lots for public use by the local government. Not even the Local Government Code empowers local government units to reserve, on their own, particular public lands for the private domain or patrimonial property of the Government. By statute, this power to classify public lands as alienable and disposable and to relegate to the private domain or patrimonial property, is reposed in the President and the DENR Secretary, as delegated to them by Congress, through CA 141 and Presidential Decree (P.D.) No. 705.⁴⁹ Therefore, they cannot delegate the same to another office or officer, such as the City Government of Zamboanga. What has once been delegated by Congress can no longer be further delegated or redelegated by the original delegate to another, as expressed in the Latin maxim – *Delegata potestas non potest delegari*.⁵⁰

Additionally, it would be the height of injustice if Alde loses his Award of Lease over the subject lots after having relied on and complied with the requirements under CA 141. For the government to renege on its Award of Lease to Alde - who faithfully complied with the requirements to lease the subject lots - is to undermine the people's trust in the Government which this Court cannot be a party to.

At this juncture, this Court holds that the presumption of regularity in the performance of official duties applies in the instant case. We find that the DENR and the OP did not commit acts in excess or lack of jurisdiction in awarding the lease to Alde.

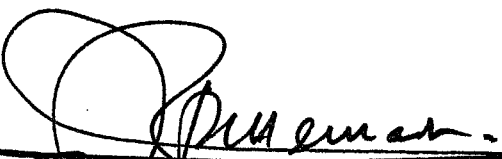
To stress, CA 141 as amended, has given the President and the DENR Secretary leeway when it comes to disposing or conceding lands under Section 61 in relation to Section 59 (d). By all accounts, the OP and the DENR Secretary have legally exercised that authority through an administrative action. Thus, in fairness to Alde who faithfully complied with the requirements of the authorities concerned, the lease awarded to him should be given due course. Given the time that has lapsed for such award, so should the same be given with dispatch.

WHEREFORE, the Petition for Review is hereby **GRANTED**. The Decision of the Court of Appeals in C.A.-G.R. SP No. 04147-MIN dated February 27, 2014 and the Resolution dated September 26, 2014 are hereby **REVERSED** and **SET ASIDE**. Let the Miscellaneous Lease Application No. 097332-10, subject of the Order of Award dated July 2, 2003 issued by the Regional Executive Director, Department of Environment and Natural Resources -Region IX, be **GIVEN DUE COURSE WITH DISPATCH**. No cost.

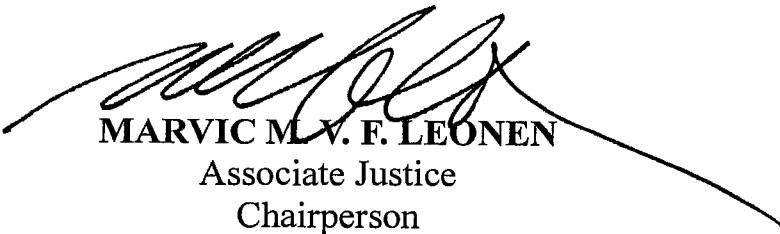
⁴⁹ *The Forestry Reform Code of the Philippines*, dated May 19, 1975.


⁵⁰ *Dumo vs. Republic*, G.R. No. 218269, June 6, 2018, 865 SCRA 119, 157-158.


SO ORDERED.

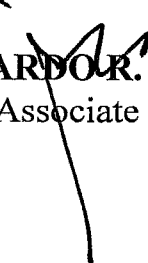

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

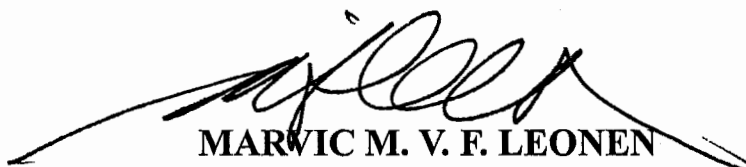

HENRI JEAN PAUL B. INTING
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


RICARDOR. ROSARIO
Associate Justice

ATTESTATION

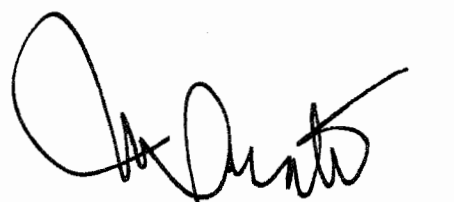
I attest that conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

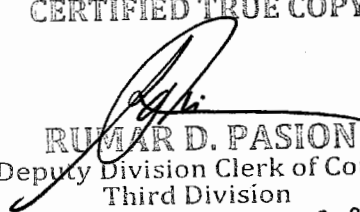
CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY



RUMAR D. PASION
Deputy Division Clerk of Court
Third Division

FEB 22 2021