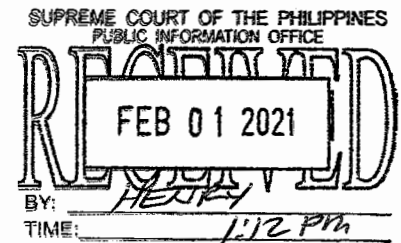




Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **October 14, 2020**, which reads as follows:

**“G.R. No. 220003 (Standard Realty & Development Corporation, Petitioner, v. Office of The President, The Hon. Secretary Of Department Of Agrarian Reform (DAR), The Regional Director, DAR Region IV, The Provincial Agrarian Reform Officer, And The Municipal Agrarian Reform Officer, Respondents).** – The Court resolves to **NOTE** the transmittal letter dated August 5, 2020 of the Court of Appeals (CA), Manila, elevating to this Court the CA *rollo* of this case.

This is a Petition for Review<sup>1</sup> under Rule 45 of the Rules of Court, seeking to reverse and set aside the 30 March 2015 Decision<sup>2</sup> and 25 August 2015 Resolution,<sup>3</sup> issued by the Court of Appeals (CA) in CA-G.R. SP No. 133614, entitled “*Standard Realty & Development Corporation, Petitioner v. Office of the President, The Hon. Secretary of the Department of Agrarian Reform, The Regional Director, DAR Region-IV, the Provincial Agrarian Reform Officer, and the Municipal Agrarian Reform Officer, Respondents.*” The CA Decision and Resolution affirmed the 12 December 2013 Decision<sup>4</sup> of the respondent Office of the President (OP) in O.P. Case No. 09-B-049 (DARCO Order No. PCV-08-11-533, series of 2008).

**Antecedents**

Standard Realty and Development Corporation (petitioner) is the registered owner of 40 parcels of land, with an aggregate area of 20.116 hectares, located in San Jose, Antipolo City, and covered by Transfer Certificate of Title Nos. (TCTs). 40729 to 40768 (subject properties).<sup>5</sup>

<sup>1</sup> *Rollo*, pp. 13-26.

<sup>2</sup> *Id.* at 31-37; penned by Associate Justice Ramon M. Bato, Jr., and concurred in by Associate Justice Manuel M. Barrios and Associate Justice Maria Elisa Sempio Diy of the Fourteenth Division, Court of Appeals, Manila.

<sup>3</sup> *Id.* at 39-40.

<sup>4</sup> *Id.* at 96-98.

<sup>5</sup> *Id.* at 31.

Municipal Agrarian Reform Officer (MARO) Efren E. de Jesus sent petitioner a Notice of Coverage dated 8 August 2003 twice to inform petitioner that the subject properties were being subjected to the State's Comprehensive Agrarian Reform Program (CARP). One of the notices was addressed to petitioner's president, served by registered mail, while the other one was personally served on petitioner, and received by a certain Lizel Arandia.<sup>6</sup>

Thereafter, petitioner, through its president, received an Invitation Letter to Conduct Field Investigation<sup>7</sup> dated 4 October 2005 for a field investigation to be conducted on 17 October 2005. On said date, the investigating team from the Department of Agrarian Reform (DAR) conducted ocular inspection of the subject properties, as witnessed by two (2) representatives of petitioner's counsel. The investigation revealed that the subject properties had fruit bearing trees, planted by the farmer-occupants thereof, who also had built their houses thereon.<sup>8</sup>

On 30 November 2005, petitioner filed a Protest<sup>9</sup> with respondent Regional Director, DAR Regional Office IV-A (Regional Director), praying for the lifting of the Notice of Coverage against it, alleging that it never received a copy of said notice, and that the subject properties were exempt from CARP coverage since the slope thereof was more than 18 percent (18%), and they were undeveloped, idle, and untenanted.<sup>10</sup>

### **Ruling of the Regional Director**

In its 10 May 2006 Order,<sup>11</sup> Regional Director Dominador B. Andres (RD Andres) denied petitioner's protest for having been filed beyond the 60-day period from petitioner's receipt of the Notice of Coverage. RD Andres likewise directed the MARO and the Provincial Agrarian Reform Officer (PARO) to place the subject properties under CARP subject to petitioner's retention right under Section 6 of Republic Act No. 6657.<sup>12</sup>

Petitioner subsequently filed a Motion for Reconsideration [To The Order Dated May 10, 2006]<sup>13</sup> which RD Andres likewise denied.<sup>14</sup> Consequently, petitioner filed its Notice of Appeal.<sup>15</sup> Acting thereon, RD

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<sup>6</sup> Id. at 31-32.

<sup>7</sup> Id. at 43.

<sup>8</sup> Id. at 32.

<sup>9</sup> Id. at 44-50.

<sup>10</sup> Id. at 32.

<sup>11</sup> Id. at 51-53.

<sup>12</sup> Id. at 32-33.

<sup>13</sup> Id. at 54-61.

<sup>14</sup> Id. at 62-63.

<sup>15</sup> Id. at 64-66.

Andres issued an Indorsement<sup>16</sup> dated 10 April 2007, referring the appeal to respondent Office of the Secretary, DAR Central Office.

### **Ruling of the DAR Secretary**

On 26 November 2008, former DAR Secretary Nasser C. Pangandaman issued an Order,<sup>17</sup> denying petitioner's appeal, as he concurred with RD Andres' finding that the protest was filed out of time. Furthermore, the DAR Secretary dismissed petitioner's contention that the subject properties have a slope of more than 18% in view of the report of the investigation team that the lots have fruit bearing trees planted by their farmer-occupants.

The DAR Secretary's Order prompted petitioner to elevate its case to the OP.<sup>18</sup>

### **Ruling of the OP**

Resolving the appeal, the OP, through former Executive Secretary Pacquito N. Ochoa, Jr., issued a Decision,<sup>19</sup> dismissing petitioner's appeal, and affirming *in toto* the ruling of the DAR Secretary.

Still undaunted, petitioner went to the CA through a Petition for Review<sup>20</sup> under Rule 43 of the Rules of Court.

### **Ruling of the CA**

After due proceedings, the CA issued the now assailed Decision, denying the petition.

As the CA likewise denied petitioner's Motion for Reconsideration (of the Decision dated March 30, 2015),<sup>21</sup> the latter filed the instant petition before this Court, submitting the following grounds for the grant thereof:

#### **(FIRST GROUND)**

**THE HONORABLE COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT PROBABLY**

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<sup>16</sup> Id. at 67.

<sup>17</sup> Id. at 68-72.

<sup>18</sup> Id. at 73-74.

<sup>19</sup> Id. at 96-98.

<sup>20</sup> Id. at 99-112.

<sup>21</sup> Id. at 126-130.

IN ACCORD WITH [THE] LAW;

(SECOND GROUND)

THE HONORABLE COURT OF APPEALS HAS SANCTIONED A DEPARTURE BY THE SECRETARY AND OFFICERS OF THE DEPARTMENT OF AGRARIAN REFORM FROM THE PROCEDURE FOR ACQUISITION OF PETITIONER'S LAND.<sup>22</sup>

### Ruling of the Court

The petition is denied.

There is no merit in petitioner's claim that the CA erred in failing to consider the lack of provisions regarding petitioner's right of retention and the amount of just compensation due to it. The CA could not have threshed out such issues because petitioner did not assign them as errors in its petition. The arguments brought to the CA are specified by the CA in its Decision, thus:

In sum, petitioner reiterates the arguments that it had raised before the DAR Regional Director, DAR Secretary and the Office of the President, that: 1) its Protest was filed within the reglementary period; 2) It was denied due process since it did not properly receive the Notice of Coverage; and 3) the subject parcels of land are not covered by CARP since the same have slopes of more than eighteen percent (18%). Additionally, petitioner contends that the Notice of Coverage was not posted in a conspicuous place in the municipal building and barangay hall of the place where the properties are located, as required under Section 16(a) of RA 6657.<sup>23</sup>

As aptly pointed out by the Office of the Solicitor General (OSG), this is the first time petitioner raises the issue regarding the right of retention and just compensation.<sup>24</sup> And this being so, the Court should not entertain the same. It is well-settled that no question will be entertained on appeal unless it has been raised in the proceedings below. Points of law, theories, issues and arguments not brought to the attention of the lower court, administrative agency or quasi-judicial body, need not be considered by a reviewing court, as they cannot be raised for the first time at that late stage. Basic considerations of fairness and due process impel this rule. Any issue raised for the first time on appeal is barred by estoppel.<sup>25</sup>

<sup>22</sup> Id. at 18.

<sup>23</sup> Id. at 34.

<sup>24</sup> Id. at 171-172.

<sup>25</sup> *S.C. Megaworld Construction and Development Corporation v. Engr. Parada*, 717 Phil. 752, 760 (2013).

Coming now to petitioner's second ground, the administrative offices, together with the CA, uniformly held that petitioner's protest was time-barred for being filed way beyond the 60-calendar day prescriptive period. However, petitioner remains insistent that it was denied due process in this case. This time, petitioner reiterates its argument in its protest that the counting of the prescriptive period was erroneously reckoned from petitioner's purported receipt of the Notice of Coverage instead of its receipt of the Invitation Letter to Conduct Field Investigation on 17 October 2005. Invoking DAR Administrative Order No. 12, Series of 1989, petitioner contends that a Notice of Coverage *and* a letter of investigation should have been sent together. Considering that the MARO sent the Invitation Letter to Conduct Field Investigation separately, the Notice of Coverage was incomplete, and the 60 calendar days should have been counted only from petitioner's receipt of the invitation letter on 17 October 2005. Hence, its filing of its protest on 30 November 2005, or 44 days after, was timely.

The Court is not persuaded.

DAR Administrative Order 3, Series of 2003<sup>26</sup> is explicit that the protest must be filed by the real party-in-interest within sixty (60) calendar days from receipt of the Notice of Coverage. Section 13.2, Rule 3 thereof provides:

13.2 After issuance of notice of coverage - Commencement shall be at the DAR Municipal Office (DARMO). When the applicant/petitioner commences the case at any other DAR office, the receiving office shall transmit the case folder to the DARMO or proper DAR office in accordance with the pertinent order and/or circular governing the subject matter. Only **the real-party-in-interest may file a protest/opposition or petition to lift CARP coverage and may only do so within sixty (60) calendar days from receipt of coverage**; a protesting party who receives a notice of coverage by newspaper publication shall file his protest/opposition/petition within sixty (60) calendar days from publication date; **failure to file the same within the period shall merit outright dismissal of the case.** [Emphases supplied.]

Clearly, the filing of the protest is counted from the date of receipt of the Notice of Coverage, irrespective of the date of the conduct of the field investigation or the public hearing. In fact, the prescriptive period for a landowner to exercise or avail of any or all the rights and privileges of the landowner as stated in the notice (such as right of retention, nomination of beneficiary, application for an exemption clearance or for exclusion, and submission of evidence for determining just compensation) is likewise counted from the receipt of the Notice of Coverage, without any regard as to the date of the field investigation or public hearing indicated in the notice.

Nevertheless, even if petitioner was right that the Notice of Coverage was incomplete for not including the invitation to field investigation, its

<sup>26</sup> Dated 16 January 2003; became effective on 08 February 2003, or ten (10) days after its publication in two newspapers of general circulation on 29 January 2003.

receipt of the Notice of Coverage still behooved it to take action within 60 calendar days therefrom, including questioning the regularity or validity of the notice for lack of the necessary invitation to a field investigation or public hearing. Pertinently, it is not for petitioner to determine by itself the completeness, let alone the validity, of the Notice of Coverage. Since the MARO's issuance of the Notice of Coverage, like any official act, is presumed to be regular until it is overcome by no less than clear and convincing evidence to the contrary, the burden was on petitioner to overcome this *juris tantum* presumption.<sup>27</sup> Hence, it should have promptly assailed the Notice of Coverage, instead of completely disregarding the same.

On another point, even if granting *arguendo* that RD Andres erred in dismissing the protest on procedural grounds, the circumstances herein nevertheless support a finding that petitioner was not deprived of due process.

In administrative proceedings, such as in the case at bar, procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. "To be heard" does not mean only verbal arguments in court; one may be heard also thru pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.<sup>28</sup> A formal or trial-type hearing is not always necessary.<sup>29</sup>

Simply put, therefore, a violation of that right occurs when a court or tribunal rules against a party without giving the person the opportunity to be heard,<sup>30</sup> while there is no violation of due process, even if no hearing was conducted, where the party was given a chance to explain his side of the controversy.<sup>31</sup>

Based on the established facts in this case, petitioner was sufficiently afforded a fair and reasonable opportunity to explain its side. From the dismissal of petitioner's protest by RD Andres, petitioner was able to file a motion for reconsideration. When said motion was denied, petitioner its case to the DAR Secretary. Notably, the DAR Secretary not only affirmed the dismissal on procedural ground, but also resolved the substantial issue raised by petitioner. As the DAR Secretary held, while the subject properties had a slope of more than 18%, they are nevertheless subject to the coverage of the CARP considering the unrefuted report of the

<sup>27</sup> See *Republic of the Philippines v. Hachero*, 785 Phil. 784, 795 (2016).

<sup>28</sup> *Vivo v. Philippine Amusement and Gaming Corporation (PAGCOR)*, 721 Phil. 34-44 (2013) citing *Casimiro v. Tandog*, 459 SCRA 624, 631.

<sup>29</sup> *Autencio v. Mañara*, 489 Phil. 752-761 (2005).

<sup>30</sup> See *Office of the Ombudsman v. Conti*, 806 Phil. 384-397 (2017).

<sup>31</sup> See *Perez v. Philippine Telegraph and Telephone Company (PT&T)*, 602 Phil. 522-564 (2009).

investigation team that the lots have fruit-bearing trees planted by their farmer-occupants. Thereafter, petitioner went to the OP, and subsequently to the CA. In affirming the findings of the DAR Secretary, both the OP and the CA likewise discussed the merits of the case. Petitioner was even required to submit its Memorandum<sup>32</sup> and a draft decision<sup>33</sup> before the OP resolved its petition.

Palpably then, petitioner fully exhausted its available appellate remedies to assail the dismissal of its protest on procedural ground, with each subsequent ruling discussing, not only the issue of the timeliness of the filing of the complaint, but also the merits of petitioner's protest. It cannot, therefore, successfully claim denial of due process. As this Court has held time and again, for as long as the parties were given fair and reasonable opportunity to be heard before judgment was rendered, the demands of due process were sufficiently met.<sup>34</sup>

Notably, petitioner has, up to now, failed to present a meritorious case despite vigorously employing all available legal remedies to question the ruling of RD Andres. Even the petition at bar does not contain a modicum of evidence to support its argument that the subject properties are exempt from CARP coverage.

It is settled that the CARP covers all public and private agricultural lands, as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture, regardless of tenurial arrangement and commodity produced.<sup>35</sup> For the subject properties to be exempt from the CARP, the same must have a gradation slope of 18% or more *and* must be undeveloped,<sup>36</sup> pursuant to Section 10<sup>37</sup> of Republic Act No. 6657, as amended. On this score, the Court subscribes to the OSG's contention<sup>38</sup> that petitioner should have submitted a certification from the Community Environment and Natural Resources Office (CENRO) that the entirety of the subject properties is within an 18% slope and over, together with a MARO certification that the subject

<sup>32</sup> *Rollo*, pp. 83-92.

<sup>33</sup> *Id.* at 93-95.

<sup>34</sup> *See Magcamit v. Internal Affairs Service-Philippine Drug Enforcement Agency (IAS-PDEA)*, 779 Phil. 43-47 (2016).

<sup>35</sup> *See Farmer Beneficiaries Belonging to the Samahang Magbubukid ng Bagumbong, Jalajala, Rizal, v. Heirs of Maronilla*, G.R. No. 229983, 29 July 2019.

<sup>36</sup> *See Unionbank of the Philippines v. The Honorable Agrarian Reform Officer*, 806 Phil. 545-566.

<sup>37</sup> SECTION 10. Exemptions and Exclusions. – Lands actually, directly and exclusively used and found to be necessary for parks, wildlife, forest reserves, reforestation, fish sanctuaries and breeding grounds, watersheds, and mangroves, national defense, school sites and campuses including experimental farm stations operated by public or private schools for educational purposes, seeds and seedlings research and pilot production centers, church sites and convents appurtenant thereto, mosque sites and Islamic centers appurtenant thereto, communal burial grounds and cemeteries, penal colonies and penal farms actually worked by the inmates, government and private research and quarantine centers and all lands with eighteen percent (18%) slope and over, except those already developed shall be exempt from the coverage of this Act.

<sup>38</sup> *Rollo*, p. 180.

undeveloped prior to 15 June 1988,<sup>39</sup> in accordance with prevailing laws and DAR issuances.<sup>40</sup>

In this case, however, petitioner has not shown any effort to successfully prove its right to be exempted from CARP coverage. Not only did it not submit the required certifications, it likewise failed to submit any competent proof to substantially refute the Investigation Report and Recommendation of DAR Legal Officer III Cleofe S. Eder-Cana that the subject parcels of land are fully developed and planted with various fruit-bearing trees and with houses constructed thereon by the farmer-occupants.<sup>41</sup>

Consequently, the factual finding of the Regional Director against petitioner, as affirmed by the OP and the CA, must stand. After all, it is axiomatic that the weighing of these pieces of evidence properly falls within the sound discretion of the DAR Secretary. In the absence of any clear showing that he acted in grave abuse of discretion, the Court will not interfere with his exercise of discretion,<sup>42</sup> especially when these findings are affirmed by the Court of Appeals.<sup>43</sup>

**WHEREFORE**, premises considered, the instant Petition for Review is **DENIED**. The Decision dated 30 March 2015 and Resolution dated 25 August 2015, issued by the Court of Appeals (CA) in CA-G.R. SP No. 133614, are **AFFIRMED**.

**SO ORDERED.**" (Leonen, J., on leave)

By authority of the Court:

*Misael C. Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
Division Clerk of Court

GER  
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<sup>39</sup> See DAR Administrative Order No. 6, Series of 1994.

<sup>40</sup> See DAR Memorandum Circular No. 11, Series of 2013: Addendum and Clarifications To Some Provision In Section II, Memorandum Circular No. 8, Series of 2010.

<sup>41</sup> Id. at 36.

<sup>42</sup> See *Unionbank of the Philippines v. The Honorable Agrarian Reform Officer*, 806 Phil. 545-566.

<sup>43</sup> Id.



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