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FIRST DIVISION

[G.R. No. 131481. March 16, 2011]

BUKLOD NANG MAGBUBUKID SA LUPAING RAMOS, INC., *petitioner, vs.* **E. M. RAMOS and SONS, INC.,** *respondent.*

[G.R. No. 131624. March 16, 2011]

DEPARTMENT OF AGRARIAN REFORM, *petitioner, vs.* **E. M. RAMOS and SONS, INC.,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; LOCAL GOVERNMENT; ZONING CLASSIFICATION; AN EXERCISE BY THE LOCAL GOVERNMENT OF POLICE POWER; ZONING ORDINANCE, ELUCIDATED.— *Zoning classification* is an exercise by the local government of police power, not the power of eminent domain. A zoning ordinance is defined as a local city or municipal legislation which logically arranges, prescribes, defines, and apportions a given political subdivision into specific land uses as present and future projection of needs. x x x By virtue of a *zoning ordinance*, the local legislature may arrange, prescribe, define, and apportion the land within its political jurisdiction into specific uses based not only on the **present,** but also on the **future** projection of needs. To limit zoning to the existing character of the property and the structures thereon would completely negate the power of the local legislature to plan land use in its city or municipality. Under such circumstance, zoning would involve no planning at all, only the rubber-stamping by the local legislature of the current use of the land. Moreover, according to the definition of *reclassification*, the specified non-agricultural use of the land must be embodied in a land use plan, and the land use plan is enacted through a zoning ordinance. Thus, zoning and planning ordinances take precedence over reclassification. The reclassification of land use is dependent on the zoning and land use plan, not the other way around. It may, therefore, be

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reasonably presumed that when city and municipal boards and councils approved an ordinance delineating an area or district in their cities or municipalities as residential, commercial, or industrial zone, pursuant to the power granted to them under Section 3 of the Local Autonomy Act of 1959, they were, at the same time, reclassifying any agricultural lands within the zone for non-agricultural use; hence, ensuring the implementation of and compliance with their zoning ordinances. The logic and practicality behind such a presumption is more evident when considering the approval by local legislative bodies of subdivision ordinances and regulations. The approval by city and municipal boards and councils of an application for subdivision through an ordinance should already be understood to include approval of the reclassification of the land, covered by said application, from agricultural to the intended non-agricultural use. Otherwise, the approval of the subdivision application would serve no practical effect; for as long as the property covered by the application remains classified as agricultural, it could not be subdivided and developed for non-agricultural use.

2. CIVIL LAW; COMMONWEALTH ACT NO. 141 (THE PUBLIC LAND ACT); CLASSIFICATION OF LANDS; THE POWER DELEGATED TO THE PRESIDENT IS LIMITED TO THE CLASSIFICATION OF LANDS OF THE PUBLIC DOMAIN THAT ARE ALIENABLE OR OPEN TO DISPOSITION.— The power delegated to the President under [Section 9]of the Public Land Act is limited to the classification of **lands of the public domain that are alienable or open to disposition.** It finds no application in the present cases for the simple reason that the subject property involved herein is no longer part of the public domain. The subject property is already privately owned and accordingly covered by certificates of title.

3. LABOR AND SOCIAL LEGISLATION; AGRARIAN LAWS; AGRICULTURAL LANDS; CONVERSION AND RECLASSIFICATION, DISTINGUISHED.— The concept that concerns this Court in the instant cases is the *reclassification of agricultural lands*. In *Alarcon v. Court of Appeals*, the Court had the occasion to define and distinguish *reclassification* from *conversion* as follows: "*Conversion* is the act of changing the current use of a piece of agricultural

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land into some other use as approved by the Department of Agrarian Reform. *Reclassification*, on the other hand, is the act of specifying how agricultural lands shall be utilized for non-agricultural uses such as residential, industrial, commercial, as embodied in the land use plan, subject to the requirements and procedure for land use conversion. x x x." Reclassification also includes the reversion of non-agricultural lands to agricultural use.

4. POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; RECLASSIFICATION OF LANDS; THE AUTHORITY TO RECLASSIFY AGRICULTURAL LANDS PRIMARILY RESIDES IN THE SANGGUNIAN OF THE CITY OR MUNICIPALITY.— Under the present Local Government Code, it is clear that the authority to reclassify agricultural lands primarily resides in the *sanggunian* of the city or municipality.

5. ID.; ID.; LOCAL AUTONOMY ACT OF 1959; CITY AND MUNICIPAL BOARDS AND COUNCILS; ZONING POWER; LIBERAL INTERPRETATION THEREOF, EXPLAINED.— A liberal interpretation of the zoning power of city and municipal boards and councils, as to include the power to accordingly reclassify the lands within the zones, would be in accord with the avowed legislative intent behind the Local Autonomy Act of 1959, which was to increase the autonomy of local governments. Section 12 of the Local Autonomy Act of 1959 itself laid down rules for interpretation of the said statute x x x. Moreover, the regulation by local legislatures of land use in their respective territorial jurisdiction through zoning and reclassification is an exercise of police power. In *Binay v. Domingo*, the Court recognized that police power need not always be expressly delegated, it may also be inferred x x x. [I]t cannot be said that power to reclassify agricultural land was first delegated to the city and municipal legislative bodies under Section 26 of the Local Government Code of 1991. Said provision only articulates a power of local legislatures, which, previously, had only been implied or inferred.

6. ID.; ID.; ID.; ID.; ZONING OR SUBDIVISION ORDINANCE; MANDATORY REQUIREMENTS; CONSULTATION WITH THE NATIONAL PLANNING COMMISSION, MERELY DISCRETIONARY.— DAR and Buklod aver that Resolution

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No. 29-A was not reviewed and approved by the NPC, in violation of the line in Section 3 of the Local Autonomy Act of 1959, stating that "[c]ities and municipalities may, however, consult the National Planning Commission on matters pertaining to planning and zoning." Consideration must be given, however, to the use of the word "may" in the said sentence. Where the provision reads "may," this word shows that it is not mandatory but discretionary. It is an auxiliary verb indicating liberty, opportunity, permission and possibility. The use of the word "may" in a statute denotes that it is directory in nature and generally permissive only. The "plain meaning rule" or *verba legis* in statutory construction is thus applicable in this case. Where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. Since consultation with the NPC was merely discretionary, then there were only two mandatory requirements for a valid zoning or subdivision ordinance or regulation under Section 3 of the Local Autonomy Act of 1959, namely, that (1) the ordinance or regulation be adopted by the city or municipal board or council; and (2) it be approved by the city or municipal mayor, both of which were complied with by Resolution No. 29-A.

7. REMEDIAL LAW; EVIDENCE; PRESUMPTIONS; PRESUMPTION THAT OFFICIAL DUTY HAS BEEN REGULARLY PERFORMED, APPLIED IN CASE AT BAR.— It is apparent that Section 16(a) of Ordinance No. 1 and Administrative Ordinance No. 152 contained the same directive: that the final plot of the subdivision be reviewed by the NPC to determine its conformity with the minimum standards set in the subdivision ordinance of the municipality. A closer scrutiny will reveal that Section 16 (a) of Ordinance No. 1 and Administrative Order No. 152 related to the duties and responsibilities of local government and NPC officials as regards the final plat of the subdivision. There is no evidence to establish that the concerned public officers herein did not follow the review process for the final plat as provided in Section 16(a) of Ordinance No. 1 and Administrative Order No. 152 before approving the same. Under Section 3(m), Rule 131 of the Rules of Court, there is a presumption that official duty has been regularly performed. Thus, in the absence of evidence to the contrary, there is a presumption that public officers performed their official duties regularly and legally and in compliance with

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applicable laws, in good faith, and in the exercise of sound judgment. And - just as the Court of Appeals observed — even if it is established that the accountable public officials failed to comply with their duties and responsibilities under Section 16(a) of Ordinance No. 1 and Administrative Order No. 152, it would be contrary to the fundamental precepts of fair play to make EMRASON bear the consequences of such non-compliance.

8. POLITICAL LAW; STATUTES; INTERPRETATION OF; A STATUTE OPERATES PROSPECTIVELY ONLY AND NEVER RETROACTIVELY, UNLESS THE LEGISLATIVE INTENT TO THE CONTRARY IS MADE MANIFEST EITHER BY THE EXPRESS TERMS OF THE STATUTE OR BY NECESSARY IMPLICATION.— The Court again agrees with the Court of Appeals that Resolution No. 29-A need not be subjected to review and approval by the HSRC/ HLURB. Resolution No. 29-A was approved by the Municipality of Dasmariñas on **July 9, 1972**, at which time, there was even no HSRC/HLURB to speak of. The earliest predecessor of the HSRC, the Task Force on Human Settlements, was created through Executive Order No. 419 more than a year later on **September 19, 1973**. And even then, the Task Force had no power to review and approve zoning and subdivision ordinances and regulations. It was only on **August 9, 1978**, with the issuance of Letter of Instructions No. 729, that local governments were required to submit their existing land use plans, zoning ordinances, enforcement systems, and procedures to the Ministry of Human Settlements for review and ratification. The HSRC was eventually established on **February 7, 1981**. x x x Neither the Ministry of Human Settlements nor the HSRC, however, could have exercised its power of review retroactively absent an express provision to that effect in Letter of Instructions No. 729 or the HSRC Charter, respectively. A sound cannon of statutory construction is that a statute operates prospectively only and never retroactively, unless the legislative intent to the contrary is made manifest either by the express terms of the statute or by necessary implication. Article 4 of the Civil Code provides that: "Laws shall have no retroactive effect, unless the contrary is provided." Hence, in order that a law may have retroactive effect, it is necessary that an express provision to this effect be made in the law, otherwise nothing should be understood

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which is not embodied in the law. Furthermore, it must be borne in mind that a law is a rule established to guide our actions without no binding effect until it is enacted, wherefore, it has no application to past times but only to future time, and that is why it is said that the law looks to the future only and has no retroactive effect unless the legislator may have formally given that effect to some legal provisions.

9. POLITICAL LAW; CONSTITUTIONAL LAW; BILL OF RIGHTS; DUE PROCESS; VESTED RIGHTS; MUST YIELD TO THE EXERCISE OF POLICE POWER.— While the subject property may be physically located within an agricultural zone under the 1981 Comprehensive Zoning Ordinance of Dasmariñas, said property retained its residential classification. According to Section 17, the Repealing Clause, of the 1981 Comprehensive Zoning Ordinance of Dasmariñas: "All other ordinances, rules or regulations in conflict with the provision of this Ordinance are hereby repealed: Provided, that **rights that have vested before the effectivity of this Ordinance shall not be impaired**." In *Ayog v. Cusi, Jr.*, the Court expounded on vested right and its protection x x x. It is true that protection of vested rights is not absolute and must yield to the exercise of police power x x x. Nonetheless, the *Sangguniang Bayan* of Dasmariñas in this case, in its exercise of police power through the enactment of the 1981 Comprehensive Zoning Ordinance, itself abided by the general rule and included in the very same ordinance an express commitment to honor rights that had already vested under previous ordinances, rules, and regulations. EMRASON acquired the vested right to use and develop the subject property as a residential subdivision on July 9, 1972 with the approval of Resolution No. 29-A by the Municipality of Dasmariñas. Such right cannot be impaired by the subsequent enactment of the 1981 Comprehensive Zoning Ordinance of Dasmariñas, in which the subject property was included in an agricultural zone. Hence, the Municipal Mayor of Dasmariñas had been continuously and consistently recognizing the subject property as a residential subdivision.

10. LABOR AND SOCIAL LEGISLATION; AGRARIAN LAWS; COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP); THE SUBJECT PROPERTY IN CASE AT BAR IS EXEMPT FROM CARP.— The Court reiterates that since July 9, 1972, upon approval of Resolution No. 29-A by the

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Municipality of Dasmariñas, the subject property had been reclassified from agricultural to residential. The tax declarations covering the subject property, classifying the same as agricultural, cannot prevail over Resolution No. 29-A. x x x Since the subject property had been reclassified as residential land by virtue of Resolution No. 29-A dated July 9, 1972, it is no longer agricultural land by the time the CARL took effect on June 15, 1988 and is, therefore, exempt from the CARP.

11. ID.; ID.; REPUBLIC ACT NO. 6657 (THE COMPREHENSIVE AGRARIAN REFORM LAW); THE OPERATIVE FACT THAT PLACES A PARCEL OF LAND BEYOND THE AMBIT OF THE LAW IS ITS VALID RECLASSIFICATION FROM AGRICULTURAL TO NON-AGRICULTURAL PRIOR TO THE EFFECTIVITY OF THE LAW.— That the land in the *Natalia Realty case* was reclassified as residential by a presidential proclamation, while the subject property herein was reclassified as residential by a local ordinance, will not preclude the application of the ruling of this Court in the former to the latter. The operative fact that places a parcel of land beyond the ambit of the CARL is its valid reclassification from agricultural to non-agricultural prior to the effectivity of the CARL on June 15, 1988, not by how or whose authority it was reclassified.

12. ID.; ID.; COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP); TO BE EXEMPT THEREFROM, ALL THAT IS NEEDED IS ONE VALID RECLASSIFICATION OF THE LAND FROM AGRICULTURAL TO NON-AGRICULTURAL BY A DULY AUTHORIZED GOVERNMENT AGENCY BEFORE THE EFFECTIVITY OF THE COMPREHENSIVE AGRARIAN REFORM LAW.— Noticeably, there were several government agencies which reclassified and converted the property from agricultural to non-agricultural in the *Pasong Bayabas case*. The CARL though does not specify which specific government agency should have done the reclassification. To be exempt from CARP, all that is needed is one valid reclassification of the land from agricultural to non-agricultural by a duly authorized government agency before June 15, 1988, when the CARL took effect. All similar actions as regards the land subsequently rendered by other government agencies shall merely serve as confirmation of the reclassification. The Court actually recognized in the *Pasong Bayabas case* the power of

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the local government to convert or reclassify lands through a zoning ordinance.

13. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; NO QUESTION MAY BE RAISED FOR THE FIRST TIME ON APPEAL; EXCEPTIONS.— As a rule, no issue may be raised on appeal unless it has been brought before the lower tribunal for its consideration. Higher courts are precluded from entertaining matters neither alleged in the pleadings nor raised during the proceedings below, but ventilated for the first time only in a motion for reconsideration or on appeal. The issues were first raised only in the Motion for Reconsideration of the Decision of the Court of Appeals, thus, it is as if they were never duly raised in that court at all. Hence, this Court cannot now, for the first time on appeal, entertain these issues, for to do so would plainly violate the basic rule of fair play, justice and due process. The Court reiterates and emphasizes the well-settled rule that an issue raised for the first time on appeal and not raised timely in the proceedings in the lower court is barred by estoppel. Indeed, there are exceptions to the aforecited rule that no question may be raised for the first time on appeal. Though not raised below, the issue of lack of jurisdiction over the subject matter may be considered by the reviewing court, as it may be raised at any stage. The said court may also consider an issue not properly raised during trial when there is plain error. Likewise, it may entertain such arguments when there are jurisprudential developments affecting the issues, or when the issues raised present a matter of public policy.

14. LABOR AND SOCIAL LEGISLATION: AGRARIAN LAWS; AGRICULTURAL LAND REFORM CODE; SECTION 36 (1) THEREOF WOULD APPLY ONLY IF THE LAND IN QUESTION IS SUBJECT TO AN AGRICULTURAL LEASEHOLD.— Contrary to the contention of Buklod, there is no necessity to carry out the conversion of the subject property to a subdivision within one year, at the risk of said property reverting to agricultural classification. x x x At the time Resolution No. 29-A was enacted by the Municipality of Dasmariñas on **July 9, 1972**, the Code of Agrarian Reforms was already in effect. The amended Section 36(1) thereof no longer contained the one-year time frame within which conversion should be carried out. More importantly, Section

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36(1) of the Code of Agrarian Reforms would apply only if the land in question was subject of an agricultural leasehold, a fact that was not established in the proceedings below. It may do well for the Buklod members to remember that they filed their present Petition to seek award of ownership over portions of the subject property as qualified farmer-beneficiaries under the CARP; and not payment of disturbance compensation as agricultural lessees under the Code of Agrarian Reforms. The insistence by Buklod on the requisites under Section 36(1) of the Agricultural Land Reform Code/Code of Agrarian Reforms only serves to muddle the issues rather than support its cause.

15. REMEDIAL LAW; CIVIL PROCEDURE; INTERVENTION; WHEN ALLOWED.— To apply the rules strictly, the motion of Buklod to intervene was filed too late. According to Section 2, Rule 19 of the Rules of Civil Procedure, "a motion to intervene may be filed at any time **before** rendition of judgment by the trial court." Judgment was already rendered in DARAB Case No. IV-Ca-0084-92 (the petition of EMRASON to nullify the notices of acquisition over the subject property), not only by the **DAR Hearing Officer**, who originally heard the case, but also the **DAR Secretary**, and then the **OP**, on appeal. Buklod only sought to intervene when the case was already before the Court of Appeals. The appellate court, in the exercise of its discretion, still allowed the intervention of Buklod in CA-G.R. SP No. 40950 only because it was "not being in any way prejudicial to the interest of the original parties, **nor will such intervention change the factual legal complexion of the case**." The intervention of Buklod challenged only the remedy availed by EMRASON and the propriety of the preliminary injunction issued by the Court of Appeals, which were directly and adequately addressed by the appellate court in its Decision dated March 26, 1997.

16. LABOR AND SOCIAL LEGISLATION; AGRARIAN LAWS; REPUBLIC ACT NO. 6657 (THE COMPREHENSIVE AGRARIAN REFORM LAW); DEPARTMENT OF AGRARIAN REFORM; HAS PRIMARY JURISDICTION OVER THE CLAIMS RAISED IN CASE AT BAR.— The factual matters raised by Buklod in its Motion for Reconsideration of the March 26, 1997 Decision of the Court

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of Appeals, and which it sought to prove by evidence, inevitably changes "the factual legal complexion of the case." The allegations of Buklod that its members are tenant-farmers of the subject property who acquired vested rights under previous agrarian reform laws, go against the findings of the DAR Region IV Hearing Officer, adopted by the DAR Secretary, the OP, and Court of Appeals, that the subject property was being acquired under the CARP for distribution to the tenant-farmers of the neighboring NDC property, after a determination that the latter property was insufficient for the needs of both the NDC-Marubeni industrial estate and the tenant-farmers. Furthermore, these new claims of Buklod are beyond the appellate jurisdiction of the Court of Appeals, being within the primary jurisdiction of the DAR.

APPEARANCES OF COUNSEL

Delfin B. Samson for petitioner in G.R. No. 131624.

Pelaez Gregorio Sipin Bala & Robles for E.M. Ramos & Sons, Inc.

David Cui-David Buenaventura & Ang Law Offices and *Aleli A. Okit* for petitioner in G.R. No. 131481.

D E C I S I O N

LEONARDO-DE CASTRO, *J.*:

Before the Court are consolidated Petitions for Review on *Certiorari*, under Rule 45 of the 1997 Rules of Civil Procedure, filed by the Buklod nang Magbubukid sa Lupaing Ramos, Inc. (Buklod) and the Department of Agrarian Reform (DAR), assailing the Decision[1] dated March 26, 1997 and the Resolution[2] dated November 24, 1997 of the Court of Appeals in CA-G.R. SP No. 40950.

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[1] *Rollo* (G.R. No. 131481), pp. 22-41; penned by Associate Justice Cancio C. Garcia with Associate Justices Eugenio S. Labitoria and Oswaldo D. Agcaoili, concurring.

[2] *Id.* at 54-59.

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The Court of Appeals declared the parcels of land owned by E.M. Ramos and Sons, Inc. (EMRASON), located in Barangay Langkaan, Dasmariñas, Cavite (subject property), exempt from the coverage of the Comprehensive Agrarian Reform Program (CARP), thus, nullifying and setting aside the Decision[3] dated February 7, 1996 and Resolution[4] dated May 14, 1996 of the Office of the President (OP) in O.P. Case No. 5461.

Quoted hereunder are the facts of the case as found by the Court of Appeals:

> At the core of the controversy are several parcels of unirrigated land (303.38545 hectares) which form part of a larger expanse with an area of 372 hectares situated at Barangay Langkaan, Dasmariñas, Cavite. Originally owned by the Manila Golf and Country Club, the property was acquired by the [herein respondent EMRASON] in 1965 for the purpose of developing the same into a residential subdivision known as "Traveller's Life Homes."
>
> Sometime in 1971, the Municipal Council of Dasmariñas, Cavite, acting pursuant to Republic Act (R.A.) No. 2264, otherwise known as the "Local Autonomy Act," enacted Municipal Ordinance No. 1, hereinafter referred to as Ordinance No. 1, entitled "An Ordinance Providing Subdivision Regulation and Providing Penalties for Violation Thereof."
>
> In May, 1972, [respondent] **E.M. Ramos and Sons, Inc**., applied for an authority to convert and develop its aforementioned 372-hectare property into a residential subdivision, attaching to the application detailed development plans and development proposals from Bancom Development Corporation and San Miguel Corporation. Acting thereon, the Municipal Council of Dasmariñas, Cavite passed on July 9, 1972 Municipal Ordinance No. 29-A (Ordinance No. 29-A, for brevity), approving [EMRASON's] application. Ordinance No. 29-A pertinently reads:
>
> > *"Resolved, as it is hereby resolved, to approve the application for subdivision containing an area of Three Hundred Seventy-Two (372) Hectares situated in Barrios Bocal and Langkaan, named as Traveller's Life Homes.*

[3] *Rollo* (G.R. No. 131624), pp. 89-109; penned by Deputy Executive Secretary Renato C. Corona (now Chief Justice of this Court).

[4] *Id.* at 110-113.

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Resolved that the Municipal Ordinance regarding subdivision regulations existing in this municipality shall be strictly followed by the subdivision."

Subsequently, [EMRASON] paid the fees, dues and licenses needed to proceed with property development.

It appears, however, that the actual implementation of the subdivision project suffered delay owing to the confluence of events. Among these was the fact that the property in question was then mortgaged to, and the titles thereto were in the possession of, the Overseas Bank of Manila, which during the period material was under liquidation.

On June 15, 1988, Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law or CARL, took effect, ushering in a new process of land classification, acquisition and distribution.

On September 23, 1988, the Municipal Mayor of Dasmariñas, Cavite addressed a letter to [EMRASON], stating in part, as follows:

"In reply to your letter of June 2, 1988, we wish to clarify that the Municipality of Dasmariñas, Cavite, has approved the development of your property situated in Barrios Bukal and Langkaan, Dasmariñas, Cavite, with a total area of 372 hectares, more or less, into residential, industrial, commercial and golf course project.

This conversion conforms with the approved Development Plan of the Municipality of Dasmariñas Cavite."

Then came the Aquino government's plan to convert the tenanted neighboring property of the National Development Company (NDC) into an industrial estate to be managed through a joint venture scheme by NDC and the Marubeni Corporation. Part of the overall conversion package called for providing the tenant-farmers, opting to remain at the NDC property, with three (3) hectares each. However, the size of the NDC property turned out to be insufficient for both the demands of the proposed industrial project as well as the government's commitment to the tenant-farmers. To address this commitment, the Department of Agrarian Reform (DAR) was thus tasked with acquiring additional lands from the nearby areas. The DAR earmarked for this purpose the subject property of [EMRASON].

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On August 29, 1990, then DAR Secretary Benjamin Leong sent out the first of four batches of notices of acquisition, each of which drew protest from [EMRASON]. All told, these notices covered 303.38545 hectares of land situated at Barangay Langkaan, Dasmariñas, Cavite owned by [EMRASON].

In the meantime, [EMRASON] filed with the Department of Agrarian Reform Adjudication Board (DARAB), Region IV, Pasig, Metro Manila, separate petitions to nullify the first three sets of the above notices. Collectively docketed as DARAB Case No. IV-Ca-0084-92, these petitions were subsequently referred to the Office of the Regional Director, Region IV, which had jurisdiction thereon. In his referral action, the Provincial Agrarian Adjudicator directed the DAR Region IV, through its Operations Division, to conduct a hearing and/or investigation to determine whether or not the subject property is covered by the Comprehensive Agrarian Reform Program (CARP) and, if not, to cancel the notices of acquisition.

Forthwith, the DAR regional office conducted an on-site inspection of the subject property.

In the course of the hearing, during which [EMRASON] offered Exhibits "A" to "UU-2" as documentary evidence, [EMRASON] received another set of notices of acquisition. As to be expected, [EMRASON] again protested.

On August 28, 1992, the Legal Division of DAR, Region IV, through Hearing Officer Victor Baguilat, rendered a decision declaring as null and void all the notices of acquisitions, observing that the property covered thereby is, pursuant to Department of Justice (DOJ) Opinion No. 44, series of 1990, exempt from CARP. The dispositive portion of the decision reads, as follows:

> "*WHEREFORE, in the light of the foregoing x x x, considering that the notices of acquisition dated August 29, 1990 relative to the 39 hectares partly covered by Transfer Certificate of Title No. T-19298; notices of acquisition all dated April 3, 1991 relative to the 131.41975 hectares partly covered by Transfer Certificates of Title Nos. x x x; notices of acquisition all dated August 28, 1991 relative to the 56.9201 hectares covered by Transfer Certificates of Title Nos. x x x; and notices of acquisition all dated May 15, 1992 relative to the 76.0456 covered by Transfer Certificates of Title Nos. x x x, all located at Barangay Langkaan, Dasmariñas, Cavite*

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and owned by petitioner E.M. RAMOS and SONS, INC. are null and void on the ground that the subject properties are exempted from CARP coverage pursuant to DOJ Opinion No. 44, Series of 1990, therefore, the aforesaid notices of acquisition be cancelled and revoked."

The DOJ Opinion adverted to, rendered by then Justice Secretary Franklin Drilon, clarified that lands already converted to non-agricultural uses before June 15, 1988 were no longer covered by CARP.

On September 3, 1992, the Region IV DAR Regional Director *motu propio* (sic) elevated the case to the Office of the Agrarian Reform Secretary, it being his view that Hearing Officer Baguilat's decision ran contrary to the department's official position "*to pursue the coverage of the same properties and its eventual distribution to qualified beneficiaries particularly the Langkaan farmers in fulfillment of the commitment of the government to deliver to them the balance of thirty-nine hectares . . .*".

On January 6, 1993, the herein respondent ***DAR Secretary Ernesto Garilao*** [(DAR Secretary Garilao)] issued an order, the decretal portion of which partly reads:

"WHEREFORE, in the interest of law and justice, an order is hereby rendered:

1. Affirming the Notices of Acquisition dated August 29, 1990, April 3, 1991, August 28, 1991 and May 15, 1992 covering 303.38545 hectares of the property owned by the E.M. RAMOS & SONS, INC., located at Barangay Langkaan, Dasmariñas, Cavite . . .;

x x x *x x x* *x x x*

3. Directing the DAR field officials concerned to pursue the coverage under RA 6657 of the properties of E.M. Ramos & Sons, Inc. for which subject Notices of Acquisition had been issued.

SO ORDERED."

Its motion for reconsideration of the aforesaid order having been denied by the [DAR Secretary Garilao] in his subsequent order of January 6, 1993, [EMRASON] appealed to the ***Office of the President*** where the recourse was docketed as ***O.P. Case No. 5461.***

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On February 7, 1996, the ***Office of the President***, through herein respondent ***Deputy Executive Secretary Renato C. Corona*** [(Deputy Executive Secretary Corona)], rendered the herein assailed decision x x x, dismissing [EMRASON's] appeal on the strength of the following observation:

> *"To recapitulate, this Office holds that [EMRASON's] property has remained **AGRICULTURAL** in classification and therefore falls within the coverage of the CARP, on the basis of the following:*
>
> *1. [EMRASON] failed to comply with the mandatory requirements and conditions of Municipal Ordinance Nos. 1 and 29-A, specifically, among others, the need for approval of the National Planning Commission through the Highway District Engineer, and the Bureau of Lands before final submission to the Municipal Council and Municipal Mayor;*
>
> *2. [EMRASON] failed to comply with Administrative Order No. 152, dated December 16, 1968; and*
>
> *3. The certification of the Human Settlements Regulatory Commission (HSRC) in 1981 and the Housing and Land Use Regulatory Board (HLRB) in 1992 that the property of [EMRASON] is agricultural".*

Undaunted, [EMRASON] interposed a motion for reconsideration, followed later by another motion whereunder it invited attention to legal doctrines involving land conversion recently enunciated by no less than the ***Office of the President*** itself.

On May 14, 1996, the [Deputy Executive Secretary Corona] came out with his second challenged issuance denying [EMRASON's] aforementioned motion for reconsideration x x x .[5]

From the denial of its Motion for Reconsideration by the OP, EMRASON filed a Petition for Review with the Court of Appeals, which was docketed as CA-G.R. SP No. 40950.

On July 3, 1996, the Court of Appeals issued a Temporary Restraining Order (TRO),[6] which enjoined then DAR Secretary

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[5] *Rollo* (G.R. No. 131481), pp. 22-27.

[6] CA *rollo*, p. 96; penned by Associate Justice Cancio C. Garcia with Associate Justices Romeo J. Callejo and Artemio G. Tuquero, concurring.

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Ernesto Garilao and Deputy Executive Secretary Renato C. Corona[7] from implementing the OP Decision of February 7, 1996 and Resolution of May 14, 1996 until further orders from the court. On September 17, 1996, the appellate court issued a Resolution[8] granting the prayer of EMRASON for the issuance of a writ of preliminary injunction. The writ of preliminary injunction[9] was actually issued on September 30, 1996 after EMRASON posted the required bond of ₱500,000.00.

The DAR Secretary filed a Motion for Reconsideration of the Resolution dated September 17, 1996 of the Court of Appeals, with the prayer that the writ of preliminary injunction already issued be lifted, recalled and/or dissolved.

At this juncture, the DAR had already prepared Certificates of Land Ownership Award (CLOAs) to distribute the subject property to farmer-beneficiaries. However, the writ of preliminary injunction issued by the Court of Appeals enjoined the release of the CLOAs. Buklod, on behalf of the alleged 300 farmer-beneficiaries of the subject property, filed a Manifestation and Omnibus Motion, wherein it moved that it be allowed to intervene as an indispensable party in CA-G.R. SP No. 40950; that the writ of preliminary injunction be immediately dissolved, having been issued in violation of Section 55 of the CARL; and that the Petition for Review of EMRASON be dismissed since the appropriate remedy should have been a petition for *certiorari* before the Supreme Court.

On March 26, 1997, the Court of Appeals promulgated its assailed Decision.

The Court of Appeals allowed the intervention of Buklod because the latter's participation was "not being in any way prejudicial to the interest of the original parties, nor will such intervention change the factual legal complexion of the case."[10]

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[7] Now Chief Justice of the Supreme Court.

[8] CA *rollo*, pp. 107-109.

[9] *Id.* at 164-165.

[10] *Rollo* (G.R. No. 131481), p. 29.

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The appellate court, however, affirmed the propriety of the remedy availed by EMRASON given that under Section 5 of Supreme Court Revised Administrative Circular No. 1-95 dated May 16, 1995, appeals from judgments or final orders of the OP or the DAR under the CARL shall be taken to the Court of Appeals, through a verified petition for review; and that under Section 3 of the same Administrative Circular, such a petition for review may raise questions of facts, law, or mixed questions of facts and law.

Ultimately, the Court of Appeals ruled in favor of EMRASON because the subject property was already converted/classified as residential by the Municipality of Dasmariñas prior to the effectivity of the CARL. The appellate court reasoned:

> For one, whether or not the Municipality of Dasmariñas, Cavite had in place in the early seventies a general subdivision plan is to us of no moment. The absence of such general plan at that time cannot be taken, for the nonce, against the [herein respondent EMRASON]. To our mind, the more weighty consideration is the accomplished fact that the municipality, conformably with its statutory-conferred local autonomy, had passed a subdivision measure, *i.e.*, Ordinance No. 1, and had approved in line thereto, through the medium of Ordinance No. 29-A, [EMRASON's] application for subdivision, or with like effect approved the conversion/classification of the lands in dispute as residential. Significantly, the Municipal Mayor of Dasmariñas, Cavite, in his letter of September 23, 1988 to [EMRASON], clarified that such conversion conforms with the approved development plan of the municipality.
>
> For another, the requirement prescribed by the cited Section 16[a] of Ordinance No. 1 relates to the approval in the first instance by the National Planning Commission of the final plat of the scheme of the subdivision, not the conversion from agricultural to residential itself. As [EMRASON] aptly puts it:
>
> > *"x x x the final plat or final plan, map or chart of the subdivision is not a condition sine qua non for the conversion x x x as the conversion was already done by the Municipal Council of Dasmariñas, Cavite. Municipal Ordinance No. 29-A*

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merely required that the final plat, or final plan x x x of the subdivision be done in conformity with Municipal Ordinance No. 1, the same to be followed by the subdivision itself. [EMRASON] therefore did not have to undertake the immediate actual development of the subject parcel of lands as the same had already been converted and declared residential by law. x x x" (Petition, pp. 17 and 18).

[EMRASON's] pose has the merit of logic. As may be noted, Ordinance No. 29-A contained two (2) resolutory portions, each inter-related to, but nonetheless independent of, the other. The first resolution, reading —

"Resolved, as it is hereby resolved, to approve the application for subdivision containing an area of Three Hundred Seventy-Two (372) Hectares situated in Barrios Bocal and Langkaan, named as Travellers Life Homes"

approved the application for subdivision or the conversion of the 372-hectare area into residential, while the second, reading —

"Resolved that the Municipal Ordinance regarding subdivision regulations existing in this municipality shall be strictly followed by the subdivision"

provides that the subdivision owner/developer shall follow subdivision regulations. It will be noted further that the second resolution already referred to the [EMRASON's] property as "subdivision," suggesting that the Municipal Council already considered as of that moment [EMRASON's] area to be for residential use.

Another requirement which [EMRASON] allegedly failed to comply with is found in Administrative Order (A.O.) No. 152, series of 1968, which pertinently provides —

"1. All Municipal Boards or City Councils, and all Municipal Councils in cities and municipalities in which a subdivision ordinance is in force, shall submit three copies of every proposed subdivision plan for which approval is sought together with the subdivision ordinance, to the National Planning Commission for comment and recommendation."

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This Court is at a loss to understand how [EMRASON] could be expected to heed a directive addressed to local government legislative bodies. From a perusal of the title of A.O. No. 152, it is at once obvious from whom it exacts compliance with its command, thus: "REQUIRING THE MUNICIPAL BOARDS OR CITY COUNCILS AND MUNICIPAL COUNCILS TO SUBMIT PROPOSED ORDINANCES AND SUBDIVISION PLANS TO THE NATIONAL PLANNING COMMISSION FOR COMMENT AND RECOMMENDATION, BEFORE TAKING ACTION ON THE SAME, AND TO FORWARD A COPY OF THEIR APPROVED SUBDIVISION ORDINANCES TO THE SAID COMMISSION."

To be sure, [EMRASON] cannot be made to bear the consequences for the non-compliance, if this be the case, by the Municipal Council of Dasmariñas, Cavite with what A.O. 152 required. A converse proposition would be antithetical to the sporting idea of fair play.[11]

As for the other requirements which EMRASON purportedly failed to comply with, the Court of Appeals held that these became obligatory only after the subject property was already converted to non-agricultural, to wit:

Foregoing considered, this Court holds that everything needed to validly effect the conversion of the disputed area to residential had been accomplished. The only conceivable step yet to be taken relates to the obtention of a conversion order from the DAR, or its predecessor, the Ministry of Agrarian Reform (MAR) under its rather intricate procedure established under Memorandum Circular No. 11-79. But then, this omission can hardly prejudice the [herein respondent EMRASON] for the DAR/MAR guidelines were promulgated only in 1979, at which time the conversion of [EMRASON's] property was already a *fait accompli.*

Like the conversion procedure set up under Memorandum Circular No. 11-79, the revised methodology under the CARL cannot also be made to apply retroactively to lands duly converted/classified as residential under the aegis of the Local Autonomy Act. For, as a rule, a statute is not intended to affect transactions which occurred before it becomes operational (Tolentino, **COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE**, Vol. I, 1983 ed.,

[11] *Id.* at 34-36.

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p. 23). And as the landmark case of ***Natalia Realty, Inc. vs. Department of Agrarian Reform***, 225 SCRA 278, teaches:

> *"Indeed, lands not devoted to agricultural activity are outside the coverage of CARL. These include lands previously converted to non-agricultural uses prior to the effectivity of CARL by government agencies other than respondent DAR . x x x.*
>
> *xxx* *xxx* *xxx*
>
> *Since the NATALIA lands were converted prior to 15 June 1988, respondent DAR is bound by such conversion. It was therefore error to include the underdeveloped portions x x x within the coverage of CARL."*

It may be so, as the assailed decision stated, that in ***Natalia*** the lands therein involved received a locational clearance from the Housing and Land Use Regulatory Board (HLRB, formerly the Human Settlement Regulatory Commission [HSRC], as residential or commercial, a factor [EMRASON] cannot assert in its favor. This dissimilarity, however, hardly provides a compelling justification not to apply the lessons of ***Natalia***. This is because the property involved in this case, unlike that in ***Natalia***, underwent classification/ conversion before the creation on May 13, 1976 of the HSRC, then known as the Human Settlements Regulatory Commission (P.D. No. 933). Furthermore, what is recognized as the HSRC's authority to classify and to approve subdivisions and comprehensive land use development plans of local governments devolved on that agency only upon its reorganization on February 7, 1981, with the issuance of Executive Order No. 648 known as the **Charter of the Human Settlements Regulatory Commission**. Section 5 of the same executive order invested the HSRC with the above classifying and approving authority. In fine, the property of [EMRASON] went into the process of conversion at the time when the intervention thereon of the HSRC, which was even then non-existent, was unnecessary. Shortly before the creation of the HSRC, it would appear that to provincial, city, or municipal councils/boards, as the case may be, belong the prerogative, albeit perhaps not exclusive, to classify private lands within their respective territorial jurisdiction and approve their conversion from agricultural to residential or other non-agricultural uses. To paraphrase the holding in *Patalinghug vs. Court of Appeals*, 229 SCRA 554, once a local government has, pursuant to its police

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power, reclassified an area as residential, that determination ought to prevail and must be respected.[12]

The Court of Appeals further observed that the subject property has never been devoted to any agricultural activity and is, in fact, more suitable for non-agricultural purposes, thus:

> It is worthy to note that the CARL defines "*agricultural lands*" as ***"lands devoted to agricultural activity x x x and not classified as mineral, forest, residential, commercial or industrial lands"*** (Sec. 3[c]). Guided by this definition, it is clear that [herein respondent EMRASON's] area does not fall under the category of agricultural lands. For, let alone the reality that the property is not devoted to some agricultural activity, being in fact unirrigated, and, as implied in the decision of the DAR Hearing Officer Victor Baguilat, without duly instituted tenants, the same had been effectively classified as residential. The bare circumstance of its not being actually developed as subdivision or that it is underdeveloped would not alter the conclusion. For, according to ***Natalia***, what actually determines the applicability of the CARL to a given piece of land is its previous classification and not its current use or stages of development as non-agricultural property.
>
> As a pragmatic consideration, the disputed area, in terms of its location in relation to existing commercial/industrial sites and its major economic use, is more suitable for purposes other than agriculture. In this connection, this Court notes that the property is situated at the heart of the CALABARZON, and, as Annex "C" of the petition demonstrates, lies adjacent to huge industrial/commercial complexes. The San Miguel-Monterey meat plant, the NDC-Marubeni complex and the Reynolds Aluminum plant may be mentioned. For sure, the Sangguniang Panlalawigan of Cavite, obviously cognizant of the economic potential of certain areas in the Municipality of Dasmariñas has, by Resolution No. 105, series of 1988, declared defined tracts of lands in the Municipality of Dasmariñas as "industrial-residential-institutional mix." [13]

As a last point, the Court of Appeals justified its issuance of a writ of preliminary injunction enjoining the implementation

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[12] *Id.* at 36-37.

[13] *Id.* at 38.

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of the OP Decision dated February 7, 1996 and Resolution dated May 14, 1996, *viz.*:

As a final consideration, we will address the [herein petitioners] **DAR Secretary's and Buklod's** joint concern regarding the propriety of the preliminary injunction issued in this case. They alleged that the issuance is violative of Section 55 of the CARL which reads:

> "SEC. 55. ***No Restraining Order or Preliminary Injunction.*** — No Court in the Philippines shall have jurisdiction to issue any restraining order or writ of preliminary injunction against the PARC or any of its duly authorized or designated agencies in any case, dispute, controversy arising from, necessary to, or in connection with the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform." (Underscoring added.)

As will be noted, the aforequoted section specifically mentions the Presidential Agrarian Reform Council (PARC) of which the DAR Secretary is the Vice Chairman, or any of its duly designated agencies as protected from an injunctive action of any court. These agencies include the PARC Executive Committee, the PARC Secretariat, which the DAR Secretary heads, and, on the local level, the different Agrarian Reform Action Committees (Secs. 41 to 45, R.A. No. 6657).

From the records, there is no indication that the [petitioner] **Agrarian Reform Secretary** acted *vis-à-vis* the present controversy for, or as an agency of, the PARC. Hence, he cannot rightfully invoke Section 55 of the CARL and avail himself of the protective mantle afforded by that provision. The PARC, it bears to stress, is a policy-formulating and coordinating body (Sec. 18, E.O. 229, July 22, 1987) without express adjudicatory mandate, unlike the DAR Secretary who, as department head, is *"vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive jurisdiction over all matters involving the implementation of agrarian reform"* (Sec. 50, R.A. 6657). Thus, it is easy to accept the proposition that the [petitioner] **Agrarian Reform Secretary** issued his challenged orders in the exercise of his quasi-judicial power as department head.[14]

In the end, the Court of Appeals decreed:

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[14] *Id.* at 40.

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WHEREFORE, the instant petition for review is hereby **GRANTED**. Accordingly, the challenged decision dated February 7, 1996 and the resolution of May 14, 1996 of the Office of the President in O.P. Case No. 5461 are hereby **NULLIFIED, VACATED** and **SET ASIDE**, and the notices of acquisition issued by the Department of Agrarian Reform covering the 372-hectare property of the [herein respondent EMRASON] at Barangay Langkaan, Dasmariñas, Cavite declared **VOID**.

The writ of preliminary injunction issued by this Court on September 30, 1996 is hereby made permanent.[15]

Buklod and DAR filed their respective Motions for Reconsideration of the foregoing Decision but both Motions were denied by the Court of Appeals in a Resolution dated November 24, 1997.

Aggrieved, Buklod and DAR filed the instant Petitions, which were consolidated by this Court in a Resolution[16] dated August 19, 1998.

In **G.R. No. 131481**, Buklod raises the following arguments:

1] THE MUNICIPAL ORDINANCE INVOKED BY [EMRASON] AS CONVERSION OF THE PROPERTY IN QUESTION ENACTED ON JULY 9, 1972 BY THE MUNICIPAL COUNCIL OF DASMARIÑAS, CAVITE IS IMPOTENT BECAUSE THE MUNICIPAL ORDINANCE IMPOSED CONDITIONS WHICH [EMRASON] NEVER COMPLIED. NO COMPLIANCE NO CONVERSION.

2] AT THE TIME THE ALLEGED ORDINANCE WAS ENACTED, A LAND REFORM LAW WAS ALREADY IN EFFECT GRANTING SECURITY OF TENURE TO THE FARMERS SO THAT A LANDOWNER CANNOT ARBITRARILY CONVERT AN AGRICULTURAL LAND INTO A DIFFERENT CLASSIFICATION WITHOUT COMPLYING WITH LEGAL REQUIREMENTS (R.A. 3844).

3] A MERE MUNICIPAL ORDINANCE CANNOT NEGATE LAND REFORM RIGHTS GRANTED TO THE FARMERS BY

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[15] *Id.* at 41.

[16] *Id.* at 103.

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LEGISLATIVE ENACTMENT UNDER R.A. 3844 AND SUBSEQUENT LAWS. LAND REFORM LAW BEING A SOCIAL LEGISLATION IS PARAMOUNT.

4] LAND REFORM IS A CONSTITUTIONAL MANDATE FOR THE BENEFIT OF THE LANDLESS FARMERS SO THAT THE LAND REFORM LAW SHOULD BE CONSTRUED AND APPLIED IN ORDER TO ATTAIN THE LEGISLATIVE INTENT OF RELIEVING THE FARMERS FROM THEIR POVERTY AND BONDAGE. THE COURT OF APPEALS IGNORED THIS CONSTITUTIONAL MANDATE TO FAVOR THE LANDLORD [EMRASON].

5] THE COURT OF APPEALS ISSUED A RESTRAINING ORDER/INJUNCTION AGAINST THE CLEAR PROHIBITION IN THE CARL (SEC. 55 RA 6657) AND SO FAR DEPARTED FROM THE USUAL COURSE OF BY REFUSING TO GRANT THE PETITIONER FARMERS A HEARING INSPITE OF THE PROCEDURE PRESCRIBED BY RA 7902 (SEC. 1).[17]

In **G.R. No. 131624**, the DAR ascribes the following errors on the part of the Court of Appeals:

I.

THE HONORABLE COURT OF APPEALS ERRED WHEN IT RULED THAT THE MUNICIPALITY OF DASMARIÑAS, CAVITE, WAS AUTHORIZED, UNDER THE LOCAL AUTONOMY ACT, TO CLASSIFY AND/OR RECLASSIFY LANDS CONSIDERING THAT WHAT WAS CONFERRED THEREUNDER WAS ONLY ZONING AUTHORITY, THUS, RENDER THE EXERCISE THEREOF BY THE MUNICIPAL COUNCIL OF DASMARIÑAS, CAVITE, *ULTRA VIRES;*

II.

EVEN ASSUMING, *IN GRATIA ARGUMENTI*, THAT THE AUTHORITY TO CLASSIFY AND RECLASSIFY LANDS IS POSSESSED BY MUNICIPAL CORPORATIONS, STILL THE HONORABLE COURT OF APPEALS ERRED WHEN IT CONSIDERED THE ALLEGED PASSAGE OF ORDINANCE NO. 29-A OF THE MUNICIPAL COUNCIL OF DASMARIÑAS, CAVITE, AS A VALID MEASURE RECLASSIFYING SUBJECT AGRICULTURAL LAND TO NON-AGRICULTURAL USE CONSIDERING THAT THE SAID APPROVAL OF THE

[17] *Id.* at 13-14.

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SUBDIVISION, PER LETTER OF THE MUNICIPAL MAYOR, FAILED TO COMPLY WITH EXISTING RULES AND REGULATIONS ON THE MATTER AND, THEREFORE, NONCOMPLYING AND INEFFECTUAL; AND

III.

THE HONORABLE COURT OF APPEALS ERRED WHEN IT APPLIED THE RULING OF THE HONORABLE COURT IN THE *NATALIA REALTY CASE* DUE TO SUBSTANTIAL DISSIMILARITY IN FACTUAL SETTING AND MILIEU.[18]

At the crux of the present controversy is the question of whether the subject property could be placed under the CARP.

DAR asserts that the subject property could be compulsorily acquired by the State from EMRASON and distributed to qualified farmer-beneficiaries under the CARP since it was still agricultural land when the CARL became effective on June 15, 1988. Ordinance Nos. 1 and 29-A, approved by the Municipality of Dasmariñas on July 13, 1971 and July 9, 1972, respectively, did not reclassify the subject property from agricultural to non-agricultural. The power to reclassify lands is an inherent power of the National Legislature under Section 9 of Commonwealth Act No. 141, otherwise known as the Public Land Act, as amended, which, absent a specific delegation, could not be exercised by any local government unit (LGU). The Local Autonomy Act of 1959 — in effect when the Municipality of Dasmariñas approved Ordinance Nos. 1 and 29-A — merely delegated to cities and municipalities zoning authority, to be understood as the regulation of the uses of property in accordance with the existing character of the land and structures. It was only Section 20 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, which extended to cities and municipalities limited authority to reclassify agricultural lands.

DAR also argues that even conceding that cities and municipalities were already authorized in 1972 to issue an

[18] *Rollo* (G.R. No. 131624), pp. 16-17.

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ordinance reclassifying lands from agricultural to non-agricultural, Ordinance No. 29-A of the Municipality of Dasmariñas was not valid since it failed to comply with Section 3 of the Local Autonomy Act of 1959, Section 16 (a) of Ordinance No. 1 of the Municipality of Dasmariñas, and Administrative Order No. 152 dated December 16, 1968, which all required review and approval of such an ordinance by the National Planning Commission (NPC). Subsequent developments further necessitated review and approval of Ordinance No. 29-A by the Human Settlements Regulatory Commission (HSRC), which later became the Housing and Land Use Regulatory Board (HLURB).

DAR further avers that the reliance by the Court of Appeals on *Natalia Realty, Inc. v. Department of Agrarian Reform* [19] (*Natalia Realty case*) is misplaced because the lands involved therein were converted from agricultural to residential use by Presidential Proclamation No. 1637, issued pursuant to the authority delegated to the President under Section 71, *et seq*., of the Public Land Act.[20]

Buklod adopts the foregoing arguments of DAR. In addition, it submits that prior to Ordinance Nos. 1 and 29-A, there were already laws implementing agrarian reform, particularly: (1) Republic Act No. 3844, otherwise known as the Agricultural Land Reform Code, in effect since August 8, 1963, and subsequently amended by Republic Act No. 6389 on September 10, 1971, after which it became known as the Code of Agrarian Reforms; and (2) Presidential Decree No. 27, otherwise known as the Tenants Emancipation Decree, which took effect on

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[19] G.R. No. 103302, August 12, 1993, 225 SCRA 278.

[20] Section 72 of the Public Land Act, in particular, reads:

SEC. 72. The Secretary of Agriculture and Natural Resources, if he approves the recommendations of the Director of Lands, shall submit the matter to the President of the end that the latter may issue a proclamation reserving the land surveyed, or such part thereof as he may deem proper, as a town site, and a certified copy of such proclamation shall be sent to the Director of Lands and another to the Register of Deeds of the province in which the surveyed land lies.

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November 19, 1972. Agricultural land could not be converted for the purpose of evading land reform for there were already laws granting farmer-tenants security of tenure, protection from ejectment without just cause, and vested rights to the land they work on.

Buklod contends that EMRASON failed to comply with Section 36 of the Code of Agrarian Reforms, which provided that the conversion of land should be implemented within one year, otherwise, the conversion is deemed in bad faith. Given the failure of EMRASON to comply with many other requirements for a valid conversion, the subject property has remained agricultural. Simply put, no compliance means no conversion. In fact, Buklod points out, the subject property is still declared as "agricultural" for real estate tax purposes. Consequently, EMRASON is now estopped from insisting that the subject property is actually "residential."

Furthermore, Buklod posits that land reform is a constitutional mandate which should be given paramount consideration. Pursuant to said constitutional mandate, the Legislature enacted the CARL. It is a basic legal principle that a legislative statute prevails over a mere municipal ordinance.

Finally, Buklod questions the issuance by the Court of Appeals of a writ of preliminary injunction enjoining the distribution of the subject property to the farmer-beneficiaries in violation of Section 55 of the CARL; as well as the refusal of the appellate court to hold a hearing despite Section 1 of Republic Act No. 7902, [21] prescribing the procedure for reception of evidence before the Court of Appeals. At such a hearing, Buklod intended to present evidence that the subject property is actually agricultural and that Buklod members have been working on said property for decades, qualifying them as farmer-beneficiaries.

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[21] An Act Expanding the Jurisdiction of the Court of Appeals, Amending for the Purpose Section Nine of Batas Pambansa Blg. 129, as Amended, Known as the Judiciary Reorganization Act of 1980.

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EMRASON, on the other hand, echoes the ruling of the Court of Appeals that the subject property is exempt from CARP because it had already been reclassified as residential with the approval of Ordinance No. 29-A by the Municipality of Dasmariñas on July 9, 1972. EMRASON cites *Ortigas & Co., Ltd. Partnership v. Feati Bank and Trust Co.*[22] (*Ortigas case*) where this Court ruled that a municipal council is empowered to adopt zoning and subdivision ordinances or regulations under Section 3 of the Local Autonomy Act of 1959.

Still relying on the *Ortigas case*, EMRASON avows that the Municipality of Dasmariñas, taking into account the conditions prevailing in the area, could validly zone and reclassify the subject property in the exercise of its police power in order to safeguard the health, safety, peace, good order, and general welfare of the people in the locality. EMRASON describes the whole area surrounding the subject property as residential subdivisions (*i.e.*, Don Gregorio, Metro Gate, Vine Village, and Cityland Greenbreeze 1 and 2 Subdivisions) and industrial estates (*i.e.,* Reynolds Aluminum Philippines, Inc. factory; NDC-Marubeni industrial complex, San Miguel Corporation-Monterey cattle and piggery farm and slaughterhouse), traversed by national highways (*i.e*., Emilio Aguinaldo National Highway, Trece Martirez, Puerto Azul Road, and Governor's Drive). EMRASON mentions that on March 25, 1988, the *Sangguniang Panlalawigan* of the Province of Cavite passed Resolution No. 105 which declared the area where subject property is located as "industrial-residential-institutional mix."

EMRASON further maintains that Ordinance No. 29-A of the Municipality of Dasmariñas is valid. Ordinance No. 29-A is complete in itself, and there is no more need to comply with the alleged requisites which DAR and Buklod are insisting upon. EMRASON quotes from *Patalinghug v. Court of Appeals*[23] (*Patalinghug case*) that "once a local government has reclassified an area as commercial, that determination for zoning purposes must prevail."

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[22] 183 Phil. 176 (1979).

[23] G.R. No. 104786, January 27, 1994, 229 SCRA 554, 559.

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EMRASON points out that Ordinance No. 29-A, reclassifying the subject property, was approved by the Municipality of Dasmariñas on July 9, 1972. Executive Order No. 648, otherwise known as the Charter of the Human Settlements Regulatory Commission (HSRC Charter) — which conferred upon the HSRC the power and duty to review, evaluate, and approve or disapprove comprehensive land use and development plans and zoning ordinances of LGUs — was issued only on February 7, 1981. The exercise by HSRC of such power could not be applied retroactively to this case without impairing vested rights of EMRASON. EMRASON disputes as well the absolute necessity of submitting Ordinance No. 29-A to the NPC for approval. Based on the language of Section 3 of the Local Autonomy Act of 1959, which used the word "may," review by the NPC of the local planning and zoning ordinances was merely permissive. EMRASON additionally posits that Ordinance No. 1 of the Municipality of Dasmariñas simply required approval by the NPC of the final plat or plan, map, or chart of the subdivision, and not of the reclassification and/or conversion by the Municipality of the subject property from agricultural to residential. As for Administrative Order No. 152 dated December 16, 1968, it was directed to and should have been complied with by the city and municipal boards and councils. Thus, EMRASON should not be made to suffer for the non-compliance by the Municipal Council of Dasmariñas with said administrative order.

EMRASON likewise reasons that since the subject property was already reclassified as residential with the mere approval of Ordinance No. 29-A by the Municipality of Dasmariñas, then EMRASON did not have to immediately undertake actual development of the subject property. Reclassification and/or conversion of a parcel of land are different from the implementation of the conversion.

EMRASON is resolute in its stance that the Court of Appeals correctly applied the *Natalia Realty case* to the present case since both have similar facts; the only difference being that the former involves a presidential fiat while the latter concerns a legislative fiat.

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EMRASON denies that the Buklod members are farmer-tenants of the subject property. The subject property has no farmer-tenants because, as the Court of Appeals observed, the property is unirrigated and not devoted to any agricultural activity. The subject property was placed under the CARP only to accommodate the farmer-tenants of the NDC property who were displaced by the NDC-Marubeni Industrial Project. Moreover, the Buklod members are still undergoing a screening process before the DAR-Region IV, and are yet to be declared as qualified farmer-beneficiaries of the subject property. Hence, Buklod members failed to establish they already have vested right over the subject property.

EMRASON urges the Court not to consider issues belatedly raised by Buklod. It may be recalled that Buklod intervened in CA-G.R. SP No. 40950 just before the Court of Appeals rendered judgment in said case. When the appellate court promulgated its Decision on March 26, 1997 favoring EMRASON, Buklod filed a Motion for Reconsideration of said judgment, to which EMRASON, in turn, filed a Comment and Opposition. In its Reply to the aforementioned Comment and Opposition of EMRASON, Buklod raised new factual matters, specifically, that: (1) EMRASON has not even subdivided the title to the subject property 27 years after its purported reclassification/ conversion; (2) EMRASON never obtained a development permit nor mayor's permit to operate a business in Dasmariñas; and (3) the farmer-tenants represented by Buklod have continuously cultivated the subject property. There was no cogent or valid reason for the Court of Appeals to allow Buklod to present evidence to substantiate the foregoing allegations. The DAR Region IV Hearing Officer already conducted extensive hearings during which the farmers were duly represented. Likewise, Buklod raises for the first time in its Petition before this Court the argument that the Tenants Emancipation Decree prescribes a procedure for conversion which EMRASON failed to comply with.

Lastly, EMRASON defends the issuance by the Court of Appeals of a writ of preliminary injunction in CA-G.R. SP No. 40950. Section 55 of the CARL is inapplicable to the case at

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bar because said provision only prohibits the issuance by a court of a TRO or writ of preliminary injunction "against the PARC or any of its duly authorized or designated agencies." As the Court of Appeals declared, the PARC is a policy-formulating and coordinating body. There is no indication whatsoever that the DAR Secretary was acting herein as an agent of the PARC. The DAR Secretary issued the orders of acquisition for the subject property in the exercise of his quasi-judicial powers as department head.

The Court, after consideration of the issues and arguments in the Petitions at bar, affirms the Court of Appeals and rules in favor of EMRASON.

CARP coverage limited to agricultural land

Section 4, Chapter II of the CARL, as amended,[24] particularly defines the coverage of the CARP, to wit:

SEC. 4. *Scope*. — The Comprehensive Agrarian Reform Law of 1988 shall cover, regardless of tenurial arrangement and commodity produced, **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: *Provided*, That landholdings of landowners with a total area of five (5) hectares and below shall not be covered for acquisition and distribution to qualified beneficiaries.

More specifically, the following lands are covered by the CARP:

(a) All alienable and disposable lands of the public domain devoted to or suitable for agriculture. No reclassification of forest

[24] The latest amendment to the CARL is Republic Act No. 9700, entitled "An Act Strengthening the Comprehensive Agrarian Reform Program (CARP), Extending the Acquisition and Distribution of All Agricultural Lands, Instituting Necessary Reforms, Amending for the Purpose Certain Provisions of Republic Act No. 6657, Otherwise Known as the Comprehensive Agrarian Reform Law of 1988, as Amended, and Appropriating Funds Therefor[,]" or more commonly known as the CARPER Law, which took effect on July 1, 2009 and extended CARP implementation for another five years, or until June 30, 2014.

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or mineral lands to agricultural lands shall be undertaken after the approval of this Act until Congress, taking into account ecological, developmental and equity considerations, shall have determined by law, the specific limits of the public domain;

(b) All lands of the public domain in excess of the specific limits as determined by Congress in the preceding paragraph;

(c) All other lands owned by the Government devoted to or suitable for agriculture; and

(d) **All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.**

A comprehensive inventory system in consonance with the national land use plan shall be instituted by the Department of Agrarian Reform (DAR), in accordance with the Local Government Code, for the purpose of properly identifying and classifying farmlands within one (1) year from effectivity of this Act, without prejudice to the implementation of the land acquisition and distribution." (Emphases supplied.)

Section 3 (c), Chapter I of the CARL further narrows down the definition of *agricultural land* that is subject to CARP to "land devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential, commercial or industrial land."

The CARL took effect on **June 15, 1988**. To be exempt from the CARP, the subject property should have already been reclassified as residential prior to said date.

The Local Autonomy Act of 1959

The Local Autonomy Act of 1959, precursor of the Local Government Code of 1991, provided:

SEC. 3. *Additional powers of provincial boards, municipal boards or city councils and municipal and regularly organized municipal district councils.* — x x x

x x x x x x x x x

Power to adopt zoning and planning ordinances. — Any provision of law to the contrary notwithstanding, Municipal Boards

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or City Councils in cities, and Municipal Councils in municipalities are hereby authorized to **adopt zoning and subdivision ordinances or regulations** for their respective cities and municipalities subject to the approval of the City Mayor or Municipal Mayor, as the case may be. Cities and municipalities **may, however, consult the National Planning Commission** on matters pertaining to planning and zoning. (Emphases supplied.)

Pursuant to the foregoing provision, the Municipal Council of Dasmariñas approved **Ordinance No. 1** on **July 13, 1971**, which laid down the general subdivision regulations for the municipality; and **Resolution No. 29-A** on **July 9, 1972**, which approved the application for subdivision of the subject property.

The Court observes that the OP, the Court of Appeals, and even the parties themselves referred to Resolution No. 29-A as an ordinance. Although it may not be its official designation, calling Resolution No. 29-A as Ordinance No. 29-A is not completely inaccurate. In the *Ortigas & Co. case*, the Court found it immaterial that the then Municipal Council of Mandaluyong declared certain lots as part of the commercial and industrial zone through a resolution, rather than an ordinance, because:

Section 3 of R.A. No. 2264, otherwise known as the Local Autonomy Act, empowers a Municipal Council "to adopt zoning and subdivision ordinances or *regulations*" for the municipality. Clearly, **the law does not restrict the exercise of the power through an ordinance**. Therefore, granting that Resolution No. 27 is not an ordinance, it certainly is a **regulatory measure within the intendment or ambit of the word "regulation"** under the provision. As a matter of fact the same section declares that the power exists "(A)ny provision of law to the contrary notwithstanding x x x ." [25] (Emphases supplied.)

Zoning and reclassification

Section 3 (c), Chapter I of the CARL provides that a parcel of land reclassified for non-agricultural uses prior to **June 15, 1988** shall no longer be considered agricultural land subject to CARP. The Court is now faced with the question of whether

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[25] *Ortigas & Co., Ltd. Partnership v. Feati Bank and Trust Co., supra* note 22 at 186-187.

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Resolution No. 29-A of the Municipality of Dasmariñas dated **July 9, 1972**, which approved the subdivision of the subject property for residential purposes, had also reclassified the same from agricultural to residential.

Zoning classification is an exercise by the local government of police power, not the power of eminent domain. A zoning ordinance is defined as a local city or municipal legislation which logically arranges, prescribes, defines, and apportions a given political subdivision into specific land uses as present and future projection of needs. [26]

The Court gave a more extensive explanation of zoning in *Pampanga Bus Company, Inc. v. Municipality of Tarlac*,[27] thus:

> The appellant argues that Ordinance No. 1 is a zoning ordinance which the Municipal Council is authorized to adopt. McQuillin in his treaties on Municipal Corporations (Volume 8, 3rd *ed*.) says:
>
> > Zoning is governmental regulation of the uses of land and buildings according to districts or zones. It is comprehensive where it is governed by a single plan for the entire municipality and prevails throughout the municipality in accordance with that plan. It is partial or limited where it is applicable only to a certain part of the municipality or to certain uses. Fire limits, height districts and building regulations are forms of partial or limited zoning or use regulation that are antecedents of modern comprehensive zoning. (pp. 11-12.)
> >
> > The term "zoning," ordinarily used with the connotation of comprehensive or general zoning, refers to governmental regulation of the uses of land and buildings according to districts or zones. This regulation must and does utilize classification of uses within districts as well as classification of districts, inasmuch as it manifestly is impossible to deal specifically with each of the innumerable uses made of land and buildings. Accordingly, (zoning has been defined as the confining of certain classes of buildings and uses to certain localities, areas, districts or zones.) It has been stated that

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[26] *Sta. Rosa Realty Development Corporation v. Court of Appeals*, 419 Phil. 457, 476 (2001).

[27] 113 Phil. 789 (1961).

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> zoning is the regulation by districts of building development and uses of property, and that the term "zoning" is not only capable of this definition but has acquired a technical and artificial meaning in accordance therewith. (Zoning is the separation of the municipality into districts and the regulation of buildings and structures within the districts so created, in accordance with their construction, and nature and extent of their use. It is a dedication of districts delimited to particular uses designed to subserve the general welfare.) Numerous other definitions of zoning more or less in accordance with these have been given in the cases. (pp. 27-28.)[28]

According to Section 1 (b) of Ordinance No. 1, "*[s]ubdivision* means the division of a tract or parcel of land into two or more lots, sites or other divisions for the purpose, whether immediate or future, o[f] a sale or building development. It includes resubdivision, and when appropriate to the context, relates to the process of subdividing as to the land of territory subdivided." Subdivision ordinances or regulations such as Resolution No. 29-A, in relation to Ordinance No. 1, constitute **partial or limited zoning,** for they are applicable to a specific property in the city or municipality to be devoted for a certain use.

Section 9 of the Public Land Act — cited by the DAR and Buklod as the purported delegation by the National Legislature of the power to reclassify — is immaterial to the instant cases. Said provision reads:

> SEC. 9. For the purpose of their administration and disposition, the **lands of the public domain alienable or open to disposition shall be classified**, according to the use or purposes to which such lands are destined, as follows:
>
> (a) Agricultural;
>
> (b) Residential, commercial, industrial, or for similar productive purposes;
>
> (c) Educational, charitable, or other similar purposes; and
>
> (d) Reservations for townsites and for public and quasi-public uses.

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[28] *Id.* at 800-801.

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The President, upon recommendation by the Secretary of Agriculture and Natural Resources, shall from time to time make the classifications provided for in this section, and may, at any time and in a similar manner, transfer lands from one class to another. (Emphasis supplied.)

The power delegated to the President under the aforequoted provision of the Public Land Act is limited to the classification of **lands of the public domain that are alienable or open to disposition**. It finds no application in the present cases for the simple reason that the subject property involved herein is no longer part of the public domain. The subject property is already privately owned and accordingly covered by certificates of title.

The concept that concerns this Court in the instant cases is the *reclassification of agricultural lands*. In *Alarcon v. Court of Appeals*,[29] the Court had the occasion to define and distinguish *reclassification* from *conversion* as follows:

Conversion is the act of changing the current use of a piece of agricultural land into some other use as approved by the Department of Agrarian Reform. *Reclassification*, on the other hand, is the act of specifying how agricultural lands shall be utilized for non-agricultural uses such as residential, industrial, commercial, as embodied in the land use plan, subject to the requirements and procedure for land use conversion. x x x.[30] (Italics supplied.)

Reclassification also includes the reversion of non-agricultural lands to agricultural use.[31]

Under the present Local Government Code, it is clear that the authority to reclassify agricultural lands primarily resides in the *sanggunian* of the city or municipality. Said provision reads in full:

Sec. 20. *Reclassification of Lands.* — (a) A city or municipality may, *through an ordinance passed by the sanggunian* after conducting public hearing for the purpose, *authorize the*

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[29] 453 Phil. 373 (2003).

[30] *Id.* at 382-383.

[31] DAR Administrative Order No. 1, series of 1999.

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reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture or (2) where the land shall have substantially greater economic value for residential, commercial, or industrial purposes, as determined by the sanggunian concerned: *Provided*, That such reclassification shall be limited to the following percentage of the total agricultural land area at the time of the passage of the ordinance:

(1) For highly urbanized and independent component cities, fifteen percent (15%);

(2) For component cities and first to the third class municipalities, ten percent (10%); and

(3) For fourth to sixth class municipalities, five percent (5%): *Provided, further*, That agricultural lands distributed to agrarian reform beneficiaries pursuant to Republic Act Numbered Sixty-six hundred fifty-seven (R.A. No. 6657), otherwise known as "The Comprehensive Agrarian Reform Law," shall not be affected by the said reclassification and the conversion of such lands into other purposes shall be governed by Section 65 of said Act.

(b) The President may, when public interest so requires and upon recommendation of the National Economic and Development Authority, authorize a city or municipality to reclassify lands in excess of the limits set in the next preceding paragraph.

(c) The local government units shall, in conformity with existing laws, continue to **prepare their respective comprehensive land use plans enacted through zoning ordinances** which shall be the primary and dominant bases for the future use of land resources: *Provided*, That the requirements for food production, human settlements, and industrial expansion shall be taken into consideration in the preparation of such plans.

(d) When approval by a national agency is required for reclassification, such approval shall not be unreasonably withheld. Failure to act on a proper and complete application for reclassification within three (3) months from receipt of the same shall be deemed as approval thereof.

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(e) Nothing in this Section shall be construed as repealing, amending, or modifying in any manner the provisions of R.A. No. 6657. (Emphases supplied.)

Prior to the Local Government Code of 1991, the Local Autonomy Act of 1959 was silent on the authority to reclassify agricultural lands. What the earlier statute expressly granted to city and municipal boards and councils, under Section 3 thereof, was the power to adopt zoning and subdivision ordinances, and regulations.

DAR and Buklod insist that zoning is merely the regulation of land use based on the **existing character** of the property and the structures thereon; and that zoning is a lesser power compared to reclassification so that the delegation of the former to the local government should not be deemed to include the latter.

Such arguments are easily refuted by reference to the definitions of zoning and reclassification earlier presented herein, which support a more extensive concept of zoning than that which DAR and BUKLOD assert.

By virtue of a *zoning ordinance*, the local legislature may arrange, prescribe, define, and apportion the land within its political jurisdiction into specific uses based not only on the **present**, but also on the **future** projection of needs. To limit zoning to the existing character of the property and the structures thereon would completely negate the power of the local legislature to plan land use in its city or municipality. Under such circumstance, zoning would involve no planning at all, only the rubber-stamping by the local legislature of the current use of the land.

Moreover, according to the definition of *reclassification*, the specified non-agricultural use of the land must be embodied in a land use plan, and the land use plan is enacted through a zoning ordinance. Thus, zoning and planning ordinances take precedence over reclassification. The reclassification of land use is dependent on the zoning and land use plan, not the other way around.

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It may, therefore, be reasonably presumed that when city and municipal boards and councils approved an ordinance delineating an area or district in their cities or municipalities as residential, commercial, or industrial zone, pursuant to the power granted to them under Section 3 of the Local Autonomy Act of 1959, they were, at the same time, reclassifying any agricultural lands within the zone for non-agricultural use; hence, ensuring the implementation of and compliance with their zoning ordinances. The logic and practicality behind such a presumption is more evident when considering the approval by local legislative bodies of subdivision ordinances and regulations. The approval by city and municipal boards and councils of an application for subdivision through an ordinance should already be understood to include approval of the reclassification of the land, covered by said application, from agricultural to the intended non-agricultural use. Otherwise, the approval of the subdivision application would serve no practical effect; for as long as the property covered by the application remains classified as agricultural, it could not be subdivided and developed for non-agricultural use.

A liberal interpretation of the zoning power of city and municipal boards and councils, as to include the power to accordingly reclassify the lands within the zones, would be in accord with the avowed legislative intent behind the Local Autonomy Act of 1959, which was to increase the autonomy of local governments. Section 12 of the Local Autonomy Act of 1959 itself laid down rules for interpretation of the said statute:

SEC. 12. *Rules for the interpretation of the Local Autonomy Act.* —

1. **Implied power** of a province, a city or municipality shall be **liberally construed** in its favor. Any fair and reasonable doubt as to the existence of the power should be interpreted in favor of the local government and it shall be presumed to exist.

2. The **general welfare clause** shall be **liberally interpreted** in case of doubt so as to give more power to local governments in promoting the economic condition, social welfare and material progress of the people in the community.

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3. Vested rights existing at the time of the promulgation of this law arising out of a contract between a province, city or municipality on one hand and a third party on the other, should be governed by the original terms and provisions of the same, and in no case would this act infringe existing rights.

Moreover, the regulation by local legislatures of land use in their respective territorial jurisdiction through zoning and reclassification is an exercise of police power. In *Binay v. Domingo*,[32] the Court recognized that police power need not always be expressly delegated, it may also be inferred:

> The police power is a governmental function, an inherent attribute of sovereignty, which was born with civilized government. It is founded largely on the maxims, "*Sic utere tuo et alienum non laedas*" *and* "*Salus populi est suprema lex*." Its fundamental purpose is securing the general welfare, comfort and convenience of the people.
>
> Police power is inherent in the state but not in municipal corporations (*Balacuit v. CFI of Agusan del Norte*, 163 SCRA 182). Before a municipal corporation may exercise such power, there must be a valid delegation of such power by the legislature which is the repository of the inherent powers of the State. **A valid delegation of police power may arise from express delegation, or be inferred from the mere fact of the creation of the municipal corporation; and as a general rule, municipal corporations may exercise police powers within the fair intent and purpose of their creation which are reasonably proper to give effect to the powers expressly granted, and statutes conferring powers on public corporations have been construed as empowering them to do the things essential to the enjoyment of life and desirable for the safety of the people.** (62 C.J.S., p. 277). The so-called inferred police powers of such corporations are as much delegated powers as are those conferred in express terms, the inference of their delegation growing out of the fact of the creation of the municipal corporation and the additional fact that the corporation can only fully accomplish the objects of its creation by exercising such powers. (*Crawfordsville vs. Braden*, 28 N.E. 849). Furthermore, **municipal corporations, as governmental agencies, must have such measures of the power as are necessary to enable them to perform their governmental functions.** The power is a continuing one, founded

[32] G.R. No. 92389, September 11, 1991, 201 SCRA 508.

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on public necessity. (62 C.J.S. p. 273) Thus, not only does the State effectuate its purposes through the exercise of the police power but the municipality does also. (*U.S. v. Salaveria,* 39 Phil. 102).

Municipal governments exercise this power under the **general welfare clause**: pursuant thereto they are clothed with authority to "enact such ordinances and issue such regulations as may be necessary to carry out and discharge the responsibilities conferred upon it by law, and such as shall be necessary and proper to provide for the health, safety, comfort and convenience, maintain peace and order, improve public morals, promote the prosperity and general welfare of the municipality and the inhabitants thereof, and insure the protection of property therein." (Sections 91, 149, 177 and 208, BP 337). And under Section 7 of BP 337, "every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary and proper for governance such as to promote health and safety, enhance prosperity, improve morals, and maintain peace and order in the local government unit, and preserve the comfort and convenience of the inhabitants therein."

Police power is the power to prescribe regulations to promote the health, morals, peace, education, good order or safety and general welfare of the people. It is the most essential, insistent, and illimitable of powers. In a sense it is the greatest and most powerful attribute of the government. It is elastic and must be responsive to various social conditions. (*Sangalang, et al. vs. IAC,* 176 SCRA 719). On it depends the security of social order, the life and health of the citizen, the comfort of an existence in a thickly populated community, the enjoyment of private and social life, and the beneficial use of property, and it has been said to be the very foundation on which our social system rests. (16 C.J.S., p. 896) However, it is not confined within narrow circumstances of precedents resting on past conditions; it must follow the legal progress of a democratic way of life. (*Sangalang, et al. vs. IAC, supra*).

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In the case of *Sangalang vs. IAC, supra*, We ruled that police power is not capable of an exact definition but has been, purposely, veiled in general terms to underscore its all-comprehensiveness. Its scope, over-expanding to meet the exigencies of the times, even to anticipate the future where it could be done, provides enough

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room for an efficient and flexible response to conditions and circumstances thus assuring the greatest benefits.

The police power of a municipal corporation is broad, and has been said to be commensurate with, but not to exceed, the duty to provide for the real needs of the people in their health, safety, comfort, and convenience as consistently as may be with private rights. It extends to all the great public needs, and, in a broad sense includes all legislation and almost every function of the municipal government. It covers a wide scope of subjects, and, while it is especially occupied with whatever affects the peace, security, health, morals, and general welfare of the community, it is not limited thereto, but is broadened to deal with conditions which exists so as to bring out of them the greatest welfare of the people by promoting public convenience or general prosperity, and to everything worthwhile for the preservation of comfort of the inhabitants of the corporation (62 C.J.S. Sec. 128). Thus, it is deemed inadvisable to attempt to frame any definition which shall absolutely indicate the limits of police power.[33] (Emphases supplied.)

Based on the preceding discussion, it cannot be said that the power to reclassify agricultural land was first delegated to the city and municipal legislative bodies under Section 26 of the Local Government Code of 1991. Said provision only articulates a power of local legislatures, which, previously, had only been implied or inferred.

Compliance with other requirements or conditions

Resolution No. 29-A is a valid ordinance, which, upon its approval on July 9, 1972, immediately effected the zoning and reclassifying of the subject property for residential use. It need not comply with any of the requirements or conditions which DAR and Buklod are insisting upon.

DAR and Buklod aver that Resolution No. 29-A was not reviewed and approved by the NPC, in violation of the line in Section 3 of the Local Autonomy Act of 1959, stating that "[c]ities and municipalities may, however, consult the National

[33] *Id.* at 513-515.

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Planning Commission on matters pertaining to planning and zoning." Consideration must be given, however, to the use of the word "may" in the said sentence. Where the provision reads "may," this word shows that it is not mandatory but discretionary. It is an auxiliary verb indicating liberty, opportunity, permission and possibility.[34] The use of the word "may" in a statute denotes that it is directory in nature and generally permissive only. The "plain meaning rule" or *verba legis* in statutory construction is thus applicable in this case. Where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.[35] Since consultation with the NPC was merely discretionary, then there were only two mandatory requirements for a valid zoning or subdivision ordinance or regulation under Section 3 of the Local Autonomy Act of 1959, namely, that (1) the ordinance or regulation be adopted by the city or municipal board or council; and (2) it be approved by the city or municipal mayor, both of which were complied with by Resolution No. 29-A.

Section 16(a) of Ordinance No. 1 of the Municipality of Dasmariñas likewise mentions the NPC, to wit:

> a. Final plat of subdivision. — As essential requirements before a subdivision is accepted for verification by the Bureau of Lands, the final plat of the scheme of the subdivision must comply with the provision of this ordinance. **Application for plat approval shall be submitted to the Municipal Mayor and shall be forwarded to the National Planning Commission thru the Highway District Engineer for comment and/or recommendations, before action is taken by the Municipal Council**. The final approval of the plat shall be made by the Municipal Mayor upon recommendation of the Municipal Council by means of a resolution. (Emphasis supplied.)

The aforementioned provision of Ordinance No. 1 refers to the **final plat** of the subdivision. The term plat includes "plat,

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[34] *Caltex (Philippines), Inc. v. Court of Appeals*, G.R. No. 97753, August 10, 1992, 212 SCRA 448, 463.

[35] *National Federation of Labor v. National Labor Relations Commission*, 383 Phil. 910, 917-918 (2000).

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plan, plot or replot."[36] It must be distinguished from the application for subdivision.

The Court concurs with the analysis of the Court of Appeals that Resolution No. 29-A actually contains two resolutions. The first reads:

> Resolved, as it is hereby Resolved to approve the **application for subdivision** containing an area of Three Hundred Seventy-Two Hectares (372) situated in barrio Bocal and Langkaan, named as Travellers Life Homes.[37] (Emphasis supplied.)

It is manifest, even from just a plain reading of said resolution, that the application for subdivision covering the subject property was categorically and unconditionally approved by the Municipality of Dasmariñas. As a consequence of such approval, the subject property is immediately deemed zoned and reclassified as residential.

Meanwhile, the second resolution in Resolution No. 29-A states:

> Resolved, that this **municipal ordinance regarding subdivision regulations** existing in this municipality shall be strictly followed by the **subdivision**.[38] (Emphases supplied.)

Significantly, this second resolution already refers to a "subdivision," supporting the immediately executory nature of the first resolution. The municipal ordinance which the subdivision must follow is Ordinance No. 1, the general subdivision regulations of the Municipality of Dasmariñas. Most provisions of Ordinance No. 1 laid down the minimum standards for the streets, roadways, sidewalks, intersections, lots and blocks, and other improvements in the subdivision, with which the final plat must comply or conform. Irrefragably, the review of the final plat of the subdivision calls for a certain level of technical expertise; hence, the directive to the Municipal Mayor to refer the final plat to

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[36] Section 1 (d) of Ordinance No. 1.

[37] Exhibit "G", Exhibits Folder, p. 42.

[38] *Id.*

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the NPC, through the Highway District Engineer, for comments and recommendation, before the same is approved by the Municipal Council, then the Mayor.

In relation to the preceding paragraph, Administrative Order No. 152 dated December 16, 1968 required city and municipal boards and councils to submit proposed subdivision ordinances and plans or forward approved subdivision ordinances to the NPC. The OP imposed such a requirement because "it has come to the attention of [the] Office that the minimum standards of such ordinances regarding design, servicing and streets, and open spaces for parks and other recreational purposes are not being complied with[.]" [39] Review by the NPC of the proposed subdivision plan was for the purpose of determining "if it conforms with the subdivision ordinance."[40]

It is apparent that Section 16(a) of Ordinance No. 1 and Administrative Ordinance No. 152 contained the same directive: that the final plat of the subdivision be reviewed by the NPC to determine its conformity with the minimum standards set in the subdivision ordinance of the municipality. A closer scrutiny will reveal that Section 16(a) of Ordinance No. 1 and Administrative Order No. 152 related to the duties and responsibilities of local government and NPC officials as regards the final plat of the subdivision. There is no evidence to establish that the concerned public officers herein did not follow the review process for the final plat as provided in Section 16 (a) of Ordinance No. 1 and Administrative Order No. 152 before approving the same. Under Section 3(m), Rule 131 of the Rules of Court, there is a presumption that official duty has been regularly performed. Thus, in the absence of evidence to the contrary, there is a presumption that public officers performed their official duties regularly and legally and in compliance with applicable laws, in good faith, and in the exercise of sound judgment.[41] And — just as the

[39] Office of the President Administrative Order No. 152, dated December 16, 1968.

[40] *Id*.

[41] *United BF Homeowners' Association, Inc. v. The (Municipal) City Mayor, Parañaque City*, G.R. No. 141010, February 7, 2007, 515 SCRA 1, 12.

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Court of Appeals observed — even if it is established that the accountable public officials failed to comply with their duties and responsibilities under Section 16(a) of Ordinance No. 1 and Administrative Order No. 152, it would be contrary to the fundamental precepts of fair play to make EMRASON bear the consequences of such non-compliance.

Although the two resolutions in Resolution No. 29-A may be related to the same subdivision, they are independent and separate. Non-compliance with the second resolution may result in the delay or discontinuance of subdivision development, or even the imposition of the penalties[42] provided in Ordinance No. 1, but not the annulment or reversal of the first resolution and its consequences.

The Court again agrees with the Court of Appeals that Resolution No. 29-A need not be subjected to review and approval by the HSRC/HLURB. Resolution No. 29-A was approved by the Municipality of Dasmariñas on **July 9, 1972**, at which time, there was even no HSRC/HLURB to speak of.

The earliest predecessor of the HSRC, the Task Force on Human Settlements, was created through Executive Order No. 419 more than a year later on **September 19, 1973**. And even then, the Task Force had no power to review and approve zoning and subdivision ordinances and regulations.

It was only on **August 9, 1978**, with the issuance of Letter of Instructions No. 729, that local governments were required to submit their existing land use plans, zoning ordinances, enforcement systems, and procedures to the Ministry of Human Settlements for review and ratification.

[42] PENALTY. Violation of any provision or provisions of this ordinance shall upon conviction, be penalized by a fine of not more than TWO HUNDRED PESOS (₱200.00) or by imprisonment of not more than SIX MONTHS (6) or by both fine and imprisonment in the discretion of the court. Each day that the violation of this ordinance continues shall be deemed a separate offense, after the date of the court decision is rendered.

If the violation is committed by a firm, a corporation, partnership or any other juridical person, the manager managing partners of the person changed with the management, of such firm, corporation, partnership or juridical person shall be criminally reasonable.

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The HSRC was eventually established on **February 7, 1981**. Section 5(b) of the HSRC Charter[43] contained the explicit mandate for the HSRC to:

> b. **Review, evaluate and approve or disapprove comprehensive land use development plans and zoning ordinances of local government**; and the zoning component of civil works and infrastructure projects of national, regional and local governments; **subdivisions**, condominiums or estate development projects including industrial estates, of both the public and private sectors and urban renewal plans, programs and projects: Provided, that the land use Development Plans and Zoning Ordinances of Local Governments herein subject to review, evaluation and approval of the commission shall respect the classification of public lands for forest purposes as certified by the Ministry of Natural Resources: Provided, further, that the classification of specific alienable and disposable lands by the Bureau of Lands shall be in accordance with the relevant zoning ordinance of Local government where it exists; and provided, finally, that in cities and municipalities where there are as yet no zoning ordinances, the Bureau of Lands may dispose of specific alienable and disposable lands in accordance with its own classification scheme subject to the condition that the classification of these lands may be subsequently change by the local governments in accordance with their particular zoning ordinances which may be promulgated later. (Emphases supplied.)

Neither the Ministry of Human Settlements nor the HSRC, however, could have exercised its power of review retroactively absent an express provision to that effect in Letter of Instructions No. 729 or the HSRC Charter, respectively. A sound cannon of statutory construction is that a statute operates prospectively only and never retroactively, unless the legislative intent to the contrary is made manifest either by the express terms of the statute or by necessary implication. Article 4 of the Civil Code provides that: "Laws shall have no retroactive effect, unless the contrary is provided." Hence, in order that a law may have

[43] Executive Order No. 648.

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retroactive effect, it is necessary that an express provision to this effect be made in the law, otherwise nothing should be understood which is not embodied in the law. Furthermore, it must be borne in mind that a law is a rule established to guide our actions without no binding effect until it is enacted, wherefore, it has no application to past times but only to future time, and that is why it is said that the law looks to the future only and has no retroactive effect unless the legislator may have formally given that effect to some legal provisions.[44]

Subsequent zoning ordinances

Still by the authority vested upon it by Section 3 of the Local Autonomy Act, the *Sangguniang Bayan* of Dasmariñas subsequently enacted a Comprehensive Zoning Ordinance, ratified by the HLURB under Board Resolution No. 42-A-3 dated **February 11, 1981** (1981 Comprehensive Zoning Ordinance of Dasmariñas). Upon the request of the DAR, Engr. Alfredo Gil M. Tan, HLURB Regional Technical Coordinator, issued a certification [45] dated September 10, 1992 stating that per the 1981 Comprehensive Zoning Ordinance of Dasmariñas, the subject property was within the **agricultural zone**. Does this mean that the subject property reverted from residential to agricultural classification?

The Court answers in the negative. While the subject property may be physically located within an agricultural zone under the 1981 Comprehensive Zoning Ordinance of Dasmariñas, said property retained its residential classification.

According to Section 17, the Repealing Clause, of the 1981 Comprehensive Zoning Ordinance of Dasmariñas: "All other ordinances, rules or regulations in conflict with the provision of this Ordinance are hereby repealed: Provided, that **rights that have vested before the effectivity of this Ordinance shall not be impaired**."

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[44] *Lepanto Consolidated Mining Co. v. WMC Resources Int'l. Pty. Ltd.*, G.R. No. 162331, November 20, 2006, 507 SCRA 315, 328.

[45] DAR records, p. 273.

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In *Ayog v. Cusi, Jr.*,[46] the Court expounded on vested right and its protection:

That vested right has to be respected. It could not be abrogated by the new Constitution. Section 2, Article XIII of the 1935 Constitution allows private corporations to purchase public agricultural lands not exceeding one thousand and twenty-four hectares. Petitioners' prohibition action is barred by the doctrine of vested rights in constitutional law.

> "A right is vested when the right to enjoyment has become the property of some particular person or persons as a present interest" (16 C.J.S. 1173). It is "the privilege to enjoy property legally vested, to enforce contracts, and enjoy the rights of property conferred by the existing law" (12 C.J.S. 955, Note 46, No. 6) or "some right or interest in property which has become fixed and established and is no longer open to doubt or controversy" (*Downs vs. Blount*, 170 Fed. 15, 20, cited in *Balboa vs. Farrales*, 51 Phil. 498, 502).

The due process clause prohibits the annihilation of vested rights. **"A state may not impair vested rights by legislative enactment, by the enactment or by the subsequent repeal of a municipal ordinance, or by a change in the constitution of the State, except in a legitimate exercise of the police power"** (16 C.J.S. 1177-78).

It has been observed that, generally, the term "vested right" expresses the concept of present fixed interest, which in right reason and natural justice should be protected against arbitrary State action, or an innately just and imperative right which an enlightened free society, sensitive to inherent and irrefragable individual rights, cannot deny (16 C.J.S. 1174, Note 71, No. 5, citing *Pennsylvania Greyhound Lines, Inc. vs. Rosenthal*, 192 Atl. 2nd 587).[47] (Emphasis supplied.)

It is true that protection of vested rights is not absolute and must yield to the exercise of police power:

A law enacted in the exercise of police power to regulate or govern certain activities or transactions could be given retroactive effect and may reasonably impair vested rights or contracts. Police power legislation is applicable not only to future contracts, but equally to

[46] 204 Phil. 126 (1982).

[47] *Id.* at 135.

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those already in existence. Non-impairment of contracts or vested rights clauses will have to yield to the superior and legitimate exercise by the State of police power to promote the health, morals, peace, education, good order, safety, and general welfare of the people. x x x .[48]

Nonetheless, the *Sangguniang Bayan* of Dasmariñas in this case, in its exercise of police power through the enactment of the 1981 Comprehensive Zoning Ordinance, itself abided by the general rule and included in the very same ordinance an express commitment to honor rights that had already vested under previous ordinances, rules, and regulations. EMRASON acquired the vested right to use and develop the subject property as a residential subdivision on July 9, 1972 with the approval of Resolution No. 29-A by the Municipality of Dasmariñas. Such right cannot be impaired by the subsequent enactment of the 1981 Comprehensive Zoning Ordinance of Dasmariñas, in which the subject property was included in an agricultural zone. Hence, the Municipal Mayor of Dasmariñas had been continuously and consistently recognizing the subject property as a residential subdivision.[49]

Incidentally, EMRASON mentions Resolution No. 105, Defining and Declaring the Boundaries of Industrial and Residential Land Use Plan in the Municipalities of Imus and Parts of Dasmariñas, Carmona, Gen. Mariano Alvarez, Gen. Trias, Silang, Tanza, Naic, Rosario, and Trece Martires City, Province of Cavite, approved by the *Sangguniang Panlalawigan* of Cavite on March 25, 1988. The *Sangguniang Panlalawigan* determined that "the lands extending from the said designated industrial areas would have greater economic value for residential and institutional uses, and would serve the interest and welfare for the greatest good of the greatest number of people." [50]

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[48] *Ortigas & Co., Ltd. v. Court of Appeals*, 400 Phil. 615, 622-623 (2000).

[49] See the List of Subdivisions within the Jurisdiction of Dasmariñas, Cavite (Exhibits Folder, Exhibit "QQ," pp. 195-200) and Certification dated September 23, 1988 (Exhibits Folder, Exhibit "S", p. 116).

[50] Resolution No. 105, Office of Sangguniang Panlalawigan, Province of Cavite.

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Resolution No. 105, approved by the HLURB in 1990, partly reads:

> Tracts of land in the Municipality of Carmona from the People's Technology Complex to parts of the Municipality of Silang, **parts of the Municipalities of Dasmariñas,** General Trias, Trece Martires City, Municipalities of Tanza and Naic forming the strip of land traversed by the Puerto Azul Road extending two kilometers more or less from each side of the road which **are hereby declared as industrial-residential-institutional mix**.[51] (Emphases supplied.)

There is no question that the subject property is located within the afore-described area. And even though Resolution No. 105 has no direct bearing on the classification of the subject property prior to the CARL — it taking effect only in 1990 after being approved by the HLURB — it is a confirmation that at present, the subject property and its surrounding areas are deemed by the Province of Cavite better suited and prioritized for industrial and residential development, than agricultural purposes.

CARP exemption

The Court reiterates that since July 9, 1972, upon approval of Resolution No. 29-A by the Municipality of Dasmariñas, the subject property had been reclassified from agricultural to residential. The tax declarations covering the subject property, classifying the same as agricultural, cannot prevail over Resolution No. 29-A. The following pronouncements of the Court in the *Patalinghug case* are of particular relevance herein:

> The reversal by the Court of Appeals of the trial court's decision was based on Tepoot's building being declared for taxation purposes as residential. It is our considered view, however, that a **tax declaration is not conclusive of the nature of the property for zoning purposes**. A property may have been declared by its owner as residential for real estate taxation purposes but it may well be within a commercial zone. A discrepancy may thus exist in the determination of the nature of property for real estate taxation purposes *vis-à-vis* the determination of a property for zoning purposes.
>
> x x x x x x x x x

[51] *Id*.

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The trial court's determination that Mr. Tepoot's building is commercial and, therefore, Sec. 8 is inapplicable, is strengthened by the fact that the Sangguniang Panlungsod has declared the questioned area as commercial or C-2. Consequently, even if Tepoot's building was declared for taxation purposes as residential, **once a local government has reclassified an area as commercial, that determination for zoning purposes must prevail**. While the commercial character of the questioned vicinity has been declared thru the ordinance, private respondents have failed to present convincing arguments to substantiate their claim that Cabaguio Avenue, where the funeral parlor was constructed, was still a residential zone. Unquestionably, the operation of a funeral parlor constitutes a "commercial purpose," as gleaned from Ordinance No. 363.[52] (Emphases supplied.)

Since the subject property had been reclassified as residential land by virtue of Resolution No. 29-A dated July 9, 1972, it is no longer agricultural land by the time the CARL took effect on June 15, 1988 and is, therefore, exempt from the CARP.

This is not the first time that the Court made such a ruling.

In the *Natalia Realty case*, Presidential Proclamation No. 1637 dated **April 18, 1979** set aside land in the Municipalities of Antipolo, San Mateo, and Montalban, Province of Rizal, as townsite areas. The properties owned by Natalia Realty, Inc. (Natalia properties) were situated within the areas proclaimed as townsite reservation. The developer of the Natalia properties was granted the necessary clearances and permits by the HSRC for the development of a subdivision in the area. Thus, the Natalia properties later became the Antipolo Hills Subdivision. Following the effectivity of the CARL on June 15, 1988, the DAR placed the undeveloped portions of the Antipolo Hills Subdivision under the CARP. For having done so, the Court found that the DAR committed grave abuse of discretion, thus:

Section 4 of R.A. 6657 provides that the CARL shall "cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands." As to what constitutes "agricultural land,"

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[52] *Patalinghug v. Court of Appeals*, *supra* note 23 at 558-559.

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it is referred to as "*land devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential, commercial or industrial land.*" The deliberations of the Constitutional Commission confirm this limitation. "Agricultural lands" are only those lands which are "arable and suitable agricultural lands" and "*do not include commercial, industrial and residential lands.*"

Based on the foregoing, it is clear that the undeveloped portions of the Antipolo Hills Subdivision cannot in any language be considered as "agricultural lands." **These lots were intended for residential use. They ceased to be agricultural lands upon approval of their inclusion in the Lungsod Silangan Reservation.** Even today, the areas in question continue to be developed as a low-cost housing subdivision, albeit at a snail's pace x x x. **The enormity of the resources needed for developing a subdivision may have delayed its completion but this does not detract from the fact that these lands are still residential lands and outside the ambit of the CARL.**

Indeed, lands not devoted to agricultural activity are outside the coverage of CARL. These include lands previously converted to non-agricultural uses prior to the effectivity of CARL by government agencies other than respondent DAR. In its Revised Rules and Regulations Governing Conversion of Private Agricultural Lands to Non-Agricultural Uses, DAR itself defined "agricultural land" thus —

> "x x x *Agricultural land refers* to those devoted to agricultural activity as defined in R.A. 6657 and not classified as mineral or forest by the Department of Environment and Natural Resources (DENR) and its predecessor agencies, and *not classified in town plans and zoning ordinances as approved by the Housing and Land Use Regulatory Board (HLURB) and its preceding competent authorities prior to 15 June 1988 for residential,* commercial or industrial use."

Since the NATALIA lands were converted prior to 15 June 1988, respondent DAR is bound by such conversion. It was therefore error to include the undeveloped portions of the Antipolo Hills Subdivision within, the coverage of CARL.

Be that as it may, the Secretary of Justice, responding to a query by the Secretary of Agrarian Reform, noted in an Opinion that lands covered by Presidential Proclamation No. 1637, *inter alia*, of which

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the NATALIA lands are part, having been reserved for townsite purposes "to be developed as human settlements by the proper land and housing agency," are "not deemed 'agricultural lands' within the meaning and intent of Section 3 (c) of R.A. No. 6657." Not being deemed "agricultural lands," they are outside the coverage of CARL.[53] (Emphases supplied.)

That the land in the *Natalia Realty case* was reclassified as residential by a presidential proclamation, while the subject property herein was reclassified as residential by a local ordinance, will not preclude the application of the ruling of this Court in the former to the latter. The operative fact that places a parcel of land beyond the ambit of the CARL is its valid reclassification from agricultural to non-agricultural prior to the effectivity of the CARL on June 15, 1988, not by how or whose authority it was reclassified.

In *Pasong Bayabas Farmers Association, Inc. v. Court of Appeals*[54] (*Pasong Bayabas case*), the Court made the following findings:

Under Section 3(c) of Rep. Act No. 6657, agricultural lands refer to lands devoted to agriculture as conferred in the said law and not classified as industrial land. Agricultural lands are only those lands which are arable or suitable lands that do not include commercial, industrial and residential lands. Section 4(e) of the law provides that it covers all private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon. Rep. Act No. 6657 took effect only on June 15, 1988. **But long before the law tools effect, the property subject of the suit had already been reclassified and converted from agricultural to non-agricultural or residential land by the following administrative agencies**: (a) the Bureau of Lands, when it approved the subdivision plan of the property consisting of 728 subdivision lots; (b) the National Planning Commission which approved the subdivision plan subdivided by the LDC/CAI for the development of the property into a low-cost housing project; **(c) the Municipal Council of *Carmona, Cavite, when it approved Kapasiyahang Blg. 30* on May**

[53] *Natalia Realty, Inc. v. Department of Agrarian Reform*, *supra* note 19 at 282-284.

[54] 473 Phil. 64 (2004).

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30, 1976; (d) Agrarian Reform Minister Conrado F. Estrella, on July 3, 1979, when he granted the application of the respondent for the development of the Hakone Housing Project with an area of 35.80 hectares upon the recommendation of the Agrarian Reform Team, Regional Director of Region IV, which found, after verification and investigation, that the property was not covered by P.D. No. 27, it being untenanted and not devoted to the production of *palay*/or corn and that the property was suitable for conversion to residential subdivision; (e) by the Ministry of Local Government and Community Development; (f) the Human Settlements Regulatory Commission which issued a location clearance, development permit, Certificate of Inspection and License to Sell to the LDC/private respondent; and, (g) the Housing and Land Use Regulatory Board which also issued to the respondent CAI/LDC a license to sell the subdivision lots.[55] (Emphases supplied.)

Noticeably, there were several government agencies which reclassified and converted the property from agricultural to non-agricultural in the *Pasong Bayabas case*. The CARL though does not specify which specific government agency should have done the reclassification. To be exempt from CARP, all that is needed is one valid reclassification of the land from agricultural to non-agricultural by a duly authorized government agency before June 15, 1988, when the CARL took effect. All similar actions as regards the land subsequently rendered by other government agencies shall merely serve as confirmation of the reclassification. The Court actually recognized in the *Pasong Bayabas case* the power of the local government to convert or reclassify lands through a zoning ordinance:

Section 3 of Rep. Act No. 2264, amending the Local Government Code, specifically empowers municipal and/or city councils to adopt zoning and subdivision ordinances or regulations in consultation with the National Planning Commission. A zoning ordinance prescribes, defines, and apportions a given political subdivision into specific land uses as present and future projection of needs. **The power of the local government to convert or reclassify lands to residential lands to non-agricultural lands reclassified is not subject to the approval of the Department of Agrarian Reform.** Section 65

[55] *Id*. at 92-93.

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of Rep. Act No. 6657 relied upon by the petitioner applies only to applications by the landlord or the beneficiary for the conversion of lands previously placed under the agrarian reform law after the lapse of five years from its award. It does not apply to agricultural lands already converted as residential lands prior to the passage of Rep. Act No. 6657.[56] (Emphases supplied.)

At the very beginning of *Junio v. Garilao*,[57] the Court already declared that:

> Lands already classified and identified as commercial, industrial or residential before June 15, 1988 — the date of effectivity of the Comprehensive Agrarian Reform Law (CARL) — are outside the coverage of this law. Therefore, they no longer need any conversion clearance from the Department of Agrarian Reform (DAR).[58]

The Court then proceeded to uphold the authority of the City Council of Bacolod to reclassify as residential a parcel of land through Resolution No. 5153-A, series of 1976. The reclassification was later affirmed by the HSRC. Resultantly, the Court sustained the DAR Order dated September 13, 1994, exempting the same parcel of land from CARP Coverage.

The writ of preliminary injunction

Any objection of Buklod against the issuance by the Court of Appeals of a writ of preliminary injunction, enjoining then DAR Secretary Garilao and Deputy Executive Secretary Corona from implementing the OP Decision of February 7, 1996 and Resolution of May 14, 1996 during the pendency of CA-G.R. SP No. 40950, had been rendered moot and academic when the appellate court already promulgated its Decision in said case on March 26, 1997 which made the injunction permanent. As the Court held in *Kho v. Court of Appeals*:[59]

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[56] *Id.* at 94-95.

[57] 503 Phil. 154 (2005).

[58] *Id.* at 157.

[59] 429 Phil. 140 (2002).

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We cannot likewise overlook the decision of the trial court in the case for final injunction and damages. The dispositive portion of said decision held that the petitioner does not have trademark rights on the name and container of the beauty cream product. The said decision on the merits of the trial court rendered the issuance of the writ of a preliminary injunction moot and academic notwithstanding the fact that the same has been appealed in the Court of Appeals. This is supported by our ruling in ***La Vista Association, Inc. v. Court of Appeals***, to wit:

> *Considering that preliminary injunction is a provisional remedy which may be granted at any time after the commencement of the action and before judgment when it is established that the plaintiff is entitled to the relief demanded and only when his complaint shows facts entitling such reliefs xxx and it appearing that the trial court had already granted the issuance of a final injunction in favor of petitioner in its decision rendered after trial on the merits xxx the Court resolved to Dismiss the instant petition having been rendered moot and academic. An injunction issued by the trial court after it has already made a clear pronouncement as to the plaintiff's right thereto, that is, after the same issue has been decided on the merits, the trial court having appreciated the evidence presented, is proper, notwithstanding the fact that the decision rendered is not yet final* x x x. Being an ancillary remedy, the proceedings for preliminary injunction cannot stand separately or proceed independently of the decision rendered on the merit of the main case for injunction. The merit of the main case having been already determined in favor of the applicant, the preliminary determination of its non-existence ceases to have any force and effect. (italics supplied)

La Vista categorically pronounced that the issuance of a final injunction renders any question on the preliminary injunctive order moot and academic despite the fact that the decision granting a final injunction is pending appeal. Conversely, a decision denying the applicant-plaintiff's right to a final injunction, although appealed, renders moot and academic any objection to the prior dissolution of a writ of preliminary injunction.[60]

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[60] *Id.* at 151-152.

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Issues belatedly raised

Buklod sought to intervene in CA-G.R. SP No. 40950, then pending before the Court of Appeals, by filing a Manifestation and Omnibus Motion in which it argued only two points: (1) the writ of preliminary injunction be immediately dissolved for having been issued in violation of Section 55 of the CARL; and (2) that the Petition for Review of EMRASON be dismissed for being the wrong remedy.

It was only after the Court of Appeals rendered its Decision dated March 26, 1997 unfavorable to both DAR and Buklod did Buklod raise in its Motion for Reconsideration several other issues, both factual and legal,[61] directly assailing the exemption of the subject property from the CARP. The Court of Appeals

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[61] 1) UNDER THE LAW APPLICABLE AT THE TIME OF THE ALLEGED CONVERSION, [EMRASON] HAD ONE (1) YEAR WITHIN WHICH TO IMPLEMENT THE CONVERSION; OTHERWISE, THE CONVERSION IS DEEMED TO BE IN BAD FAITH (Sec. 36 Agricultural Land Reform Code, R.A. 3844);

2) BY VIRTUE OF THE AGRICULTURAL LAND REFORM CODE (R.A. 3844) WHICH TOOK EFFECT ON AUGUST 8, 1963, THE FARMERS CULTIVATING THE PROPERTY WERE GRANTED A LEGISLATIVE SECURITY OF TENURE AS AGRICULTURAL LESSEE (Sec. 7) WHICH CANNOT BE NEGATED BY A MERE MUNICIPAL ORDINANCE;

3) SINCE 1972 TO THE PRESENT, [EMRASON] DID NOT PERFORM ANY ACT TO IMPLEMENT THE ALLEGED CONVERSION OF THE PROPERTY INTO A RESIDENTIAL SUBDIVISION SUCH AS SUBDIVIDING THE TITLES IN ACCORDANCE WITH A SUBDIVISION PLAN; DECLARING THE PROPERTY AS RESIDENTIAL LOTS AND OBTAINING THE PROPER DOCUMENTATION FROM GOVERNMENT OFFICES;

4) [EMRASON] IS ESTOPPED FROM INVOKING THE ALLEGED CONVERSION IN 1972 BECAUSE IT CONTINUED TO USE THE FOR AGRICULTURAL ACTIVITY BY LEASING THE SAME FOR AGRICULTURAL PURPOSES AND PAYING REAL ESTATE TAX THEREON UNDER "AGRICULTURAL PROPERTY";

5) THE LEASEHOLD TENANCY UNDER R.A. 3844 IS MANDATORY SO THAT THE FARMERS REPRESENTED BY HEREIN INTERVENOR HAVE A VESTED RIGHT OVER THE PROPERTY (Sec. 4);

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refused to consider said issues because they were raised by Buklod for the first time in its Motion for Reconsideration.

Buklod persistently raises the same issues before this Court, and the Court, once more, refuses to take cognizance of the same.

As a rule, no issue may be raised on appeal unless it has been brought before the lower tribunal for its consideration. Higher courts are precluded from entertaining matters neither alleged in the pleadings nor raised during the proceedings below, but ventilated for the first time only in a motion for reconsideration or on appeal.[62] The issues were first raised only in the Motion for Reconsideration of the Decision of the Court of Appeals, thus, it is as if they were never duly raised in that court at all. Hence, this Court cannot now, for the first time on appeal, entertain these issues, for to do so would plainly violate the basic rule of fair play, justice and due process. The Court reiterates and emphasizes the well-settled rule that an issue raised for the first time on appeal and not raised timely in the proceedings in the lower court is barred by estoppel.[63]

Indeed, there are exceptions to the aforecited rule that no question may be raised for the first time on appeal. Though not raised below, the issue of lack of jurisdiction over the subject matter may be considered by the reviewing court, as it may be raised at any stage. The said court may also consider an issue

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6) GIVEN THE MANDATE OF THE 1987 CONSTITUTION FOR A MEANINGFUL LAND REFORM, IT IS INEVITABLE THAT THE PROPERTY IN QUESTION IS SUBJECT TO LAND REFORM;

7) FINDINGS OF FACT BY THE DAR IS CONCLUSIVE WHICH SHOULD NOT BE IGNORED IN THE ABSENCE OF COMPELLING REASONS, THE PRESENCE OF MORE THAN 300 FARMERS WITHIN THE PROPERTY IN QUESTION WHO HAVE CULTIVATED THE LAND FOR DECADES CLEARLY SHOWS THE IMPERATIVE NECESSITY OF GRANTING THE FARMERS THE SALUTARY EFFECTS OF LAND REFORM. (CA *rollo*, pp. 281-282).

[62] *Prudential Bank v. Lim*, G.R. No. 136371, November 11, 2005, 474 SCRA 485, 498.

[63] *Sanchez v. Court of Appeals*, 345 Phil. 155, 185-186 (1997).

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not properly raised during trial when there is plain error. Likewise, it may entertain such arguments when there are jurisprudential developments affecting the issues, or when the issues raised present a matter of public policy.[64] Buklod, however, did not allege, much less argue, that its case falls under any of these exceptions.

Nonetheless, even when duly considered by this Court, the issues belatedly raised by Buklod are without merit.

Contrary to the contention of Buklod, there is no necessity to carry out the conversion of the subject property to a subdivision within one year, at the risk of said property reverting to agricultural classification.

Section 36(1) of the Agricultural Land Reform Code, in effect since **August 8, 1963**, provided:

SEC. 36. *Possession of Landholding; Exceptions.* — Notwithstanding any agreement as to the period or future surrender, of the land, an agricultural lessee shall continue in the enjoyment and possession of his landholding except when his dispossession has been authorized by the Court in a judgment that is final and executory if after due hearing it is shown that:

(1) The agricultural lessor-owner or a member of his immediate family will personally cultivate the landholding or will convert the landholding, if suitably located, into residential, factory, hospital or school site or other useful non-agricultural purposes: *Provided,* That the agricultural lessee shall be entitled to disturbance compensation equivalent to five years rental on his landholding in addition to his rights under Sections twenty-five and thirty-four, except when the land owned and leased by the agricultural lessor is not more than five hectares, in which case instead of disturbance compensation the lessee may be entitled to an advanced notice of at least one agricultural year before ejectment proceedings are filed against him: *Provided, further,* **That should the landholder** not cultivate the land himself for three years or **fail to substantially carry out such conversion within one year after the dispossession of the tenant, it shall be presumed that he acted in bad faith and the tenant shall have the right to demand possession of the**

[64] *Del Rosario v. Bonga,* 402 Phil. 949, 960 (2001).

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land and recover damages for any loss incurred by him because of said dispossessions; xxx.(Emphasis supplied.)

On **September 10, 1971**, the Agricultural Land Reform Code was amended and it came to be known as the Code of Agrarian Reforms. After its amendment, Section 36(1) stated:

(1) The landholding is declared by the department head upon recommendation of the National Planning Commission to be suited for residential, commercial, industrial or some other urban purposes: *Provided*, That the agricultural lessee shall be entitled to disturbance compensation equivalent to five times the average of the gross harvests on his landholding during the last five preceding calendar years.

At the time Resolution No. 29-A was enacted by the Municipality of Dasmariñas on **July 9, 1972**, the Code of Agrarian Reforms was already in effect. The amended Section 36(1) thereof no longer contained the one-year time frame within which conversion should be carried out.

More importantly, Section 36(1) of the Code of Agrarian Reforms would apply only if the land in question was subject of an agricultural leasehold, a fact that was not established in the proceedings below. It may do well for the Buklod members to remember that they filed their present Petition to seek award of ownership over portions of the subject property as qualified farmer-beneficiaries under the CARP; and not payment of disturbance compensation as agricultural lessees under the Code of Agrarian Reforms. The insistence by Buklod on the requisites under Section 36(1) of the Agricultural Land Reform Code/ Code of Agrarian Reforms only serves to muddle the issues rather than support its cause.

Buklod likewise invokes the vested rights of its members under the Agricultural Land Reform Code/Code of Agrarian Reforms and the Tenants Emancipation Decree, which preceded the CARP. Yet, for the Buklod members to be entitled to any of the rights and benefits under the said laws, it is incumbent upon them to prove first that they qualify as agricultural lessees or farm workers of the subject property, as defined in Section

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166(2)[65] and (15)[66] of the Code of Agrarian Reforms; and/or they are tenant-farmers of private agricultural lands primarily devoted to rice and corn, under a system of share-crop or lease tenancy, and are members of a duly recognized farmer's cooperative, as required by the Tenants Emancipation Decree. None of these determinative facts were established by Buklod.

Buklod counters that it precisely moved for a hearing before the Court of Appeals so that it could present evidence to prove such facts, but the appellate court erroneously denied its motion.

The Court finds that the Court of Appeals did not err on this matter.

In the recent case of *Office of the Ombudsman v. Sison*,[67] the Court expounded on the rules on intervention:

> It is fundamental that the allowance or disallowance of a Motion to Intervene is addressed to the sound discretion of the court. The permissive tenor of the rules shows the intention to give to the court the full measure of discretion in permitting or disallowing the intervention, thus:
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> **SECTION 1.** *Who may intervene.* — A person who has a legal interest in the matter in litigation, or in the success

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[65] SEC. 166. *Definition of Terms.* — As used in Chapter I of this Code:

x x x x x x x x x

(2) "Agricultural lessee" means a person who, by himself and with the aid available from within his immediate farm household, cultivates the land belonging to, or possessed by, another with the latter's consent for purposes of production, for a price certain in money or in produce or both. It is distinguished from civil law lessee as understood in the Civil Code of the Philippines.

[66] SEC. 166. *Definition of Terms.* — As used in Chapter I of this Code:

x x x x x x x x x

(15) "Farm worker" includes any agricultural wage, salary or piece worker but is not limited to a farm worker of a particular farm employer unless this Code explicitly states otherwise and any individual whose work has ceased as consequence of, or in connection with, a current agrarian dispute or an unfair labor practice and who has not obtained a substantially equivalent and regular employment.

[67] G.R. No. 185954, February 16, 2010, 612 SCRA 702.

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> of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.
>
> **SECTION 2.** *Time to intervene.* — The motion to intervene **may be filed at any time before rendition of judgment by the trial court.** A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (Emphasis supplied.)

Simply, intervention is a procedure by which third persons, not originally parties to the suit but claiming an interest in the subject matter, come into the case in order to protect their right or interpose their claim. Its main purpose is to settle in one action and by a single judgment all conflicting claims of, or the whole controversy among, the persons involved.

To warrant intervention under Rule 19 of the Rules of Court, two requisites must concur: (1) the movant has a legal interest in the matter in litigation; and (2) intervention must not unduly delay or prejudice the adjudication of the rights of the parties, nor should the claim of the intervenor be capable of being properly decided in a separate proceeding. The interest, which entitles one to intervene, must involve the matter in litigation and of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment.[68]

To apply the rules strictly, the motion of Buklod to intervene was filed too late. According to Section 2, Rule 19 of the Rules of Civil Procedure, "a motion to intervene may be filed at any time **before** rendition of judgment by the trial court." Judgment was already rendered in DARAB Case No. IV-Ca-0084-92 (the petition of EMRASON to nullify the notices of acquisition over the subject property), not only by the **DAR Hearing Officer**,

[68] *Id.* at 712-713.

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who originally heard the case, but also the **DAR Secretary**, and then the **OP**, on appeal.

Buklod only sought to intervene when the case was already before the Court of Appeals. The appellate court, in the exercise of its discretion, still allowed the intervention of Buklod in CA-G.R. SP No. 40950 only because it was "not being in any way prejudicial to the interest of the original parties, **nor will such intervention change the factual legal complexion of the case.**"[69] The intervention of Buklod challenged only the remedy availed by EMRASON and the propriety of the preliminary injunction issued by the Court of Appeals, which were directly and adequately addressed by the appellate court in its Decision dated March 26, 1997.

The factual matters raised by Buklod in its Motion for Reconsideration of the March 26, 1997 Decision of the Court of Appeals, and which it sought to prove by evidence, inevitably changes "the factual legal complexion of the case." The allegations of Buklod that its members are tenant-farmers of the subject property who acquired vested rights under previous agrarian reform laws, go against the findings of the DAR Region IV Hearing Officer, adopted by the DAR Secretary, the OP, and Court of Appeals, that the subject property was being acquired under the CARP for distribution to the tenant-farmers of the neighboring NDC property, after a determination that the latter property was insufficient for the needs of both the NDC-Marubeni industrial estate and the tenant-farmers.

Furthermore, these new claims of Buklod are beyond the appellate jurisdiction of the Court of Appeals, being within the primary jurisdiction of the DAR. As Section 50 of the CARL, as amended, reads:

SEC. 50. *Quasi-Judicial Powers of the DAR.* — The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the

[69] *Rollo* (G.R. No. 131481), p. 29.

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Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).

In fact, records reveal that Buklod already sought remedy from the DARAB. DARAB Case No. IV-CA-0261, entitled *Buklod nang Magbubukid sa Lupaing Ramos, rep. by Edgardo Mendoza, et al. v. E.M. Ramos and Sons, Inc., et al.*, was pending at about the same time as DARAB Case No. IV-Ca-0084-92, the petition of EMRASON for nullification of the notices of acquisition covering the subject property. These two cases were initially consolidated before the DARAB Region IV. The DARAB Region IV eventually dismissed DARAB Case No. IV-Ca-0084-92 and referred the same to the DAR Region IV Office, which had jurisdiction over the case. Records failed to reveal the outcome of DARAB Case No. IV-CA-0261.

On a final note, this Court has stressed more than once that social justice — or any justice for that matter — is for the deserving, whether he be a millionaire in his mansion or a pauper in his hovel. It is true that, in case of reasonable doubt, the Court is called upon to tilt the balance in favor of the poor to whom the Constitution fittingly extends its sympathy and compassion. But never is it justified to give preference to the poor simply because they are poor, or to reject the rich simply because they are rich, for justice must always be served for poor and rich alike, according to the mandate of the law.[70] Vigilance over the rights of the landowners is equally important because social justice cannot be invoked to trample on the rights of property owners, who under our Constitution and laws are also entitled to protection.[71]

WHEREFORE, the Petitions for Review filed by the Buklod Nang Magbubukid Sa Lupaing Ramos, Inc. in G.R. No. 131481 and the Department of Agrarian Reform in G.R. No. 131624 are hereby *DENIED*. The Decision dated March 26, 1997 and

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[70] *Gelos v. Court of Appeals*, G.R. No. 86186, May 8, 1992, 208 SCRA 608, 616.

[71] *Land Bank of the Philippines v. Court of Appeals*, 319 Phil. 246, 262 (1995).

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the Resolution dated November 24, 1997 of the Court of Appeals in CA-G.R. SP No. 40950 are hereby *AFFIRMED*.

SO ORDERED.

Velasco, Jr. (Acting Chairperson), del Castillo, Perez, and *Mendoza,*[*] *JJ.*, concur.

SECOND DIVISION

[G.R. No. 152033. March 16, 2011]

FILIPINAS SYNTHETIC FIBER CORPORATION, *petitioner, vs.* **WILFREDO DE LOS SANTOS, BENITO JOSE DE LOS SANTOS, MARIA ELENA DE LOS SANTOS and CARMINA *VDA. DE* DE LOS SANTOS,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; FACTUAL FINDINGS OF THE TRIAL COURT ARE GENERALLY FINAL AND CONCLUSIVE AND MAY NOT BE REVIEWED ON APPEAL; EXCEPTIONS.— Whether a person is negligent or not is a question of fact which this Court cannot pass upon in a petition for review on *certiorari*, as its jurisdiction is limited to reviewing errors of law. As a rule, factual findings of the trial court, affirmed by the CA, are final and conclusive and may not be reviewed on appeal. The established exceptions are: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the findings are grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the CA is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA, in making its findings, went beyond the issues of the case and the same is contrary

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[*] Per raffle dated July 19, 2010.