Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NAGKAKAISANG MARALITA NG SITIO MASIGASIG, INC., Petitioner, - versus - **MILITARY SHRINE SERVICES – PHILIPPINE VETERANS AFFAIRS OFFICE, DEPARTMENT OF NATIONAL DEFENSE,** Respondent.	**G. R. No. 187587**
WESTERN BICUTAN LOT OWNERS ASSOCIATION, INC., represented by its Board of Directors, Petitioner, - versus - **MILITARY SHRINE SERVICES – PHILIPPINE VETERANS AFFAIRS OFFICE, DEPARTMENT OF NATIONAL DEFENSE,** Respondent.	**G. R. No. 187654** Present: SERENO, *CJ*, Chairperson, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and REYES, *JJ.* Promulgated: **JUN 05 2013**

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DECISION

SERENO, *CJ*:

Before us are consolidated Petitions for Review under Rule 45 of the Rules of Court assailing the Decision[1] promulgated on 29 April 2009 of the Court of Appeals in CA-G.R. SP No. 97925.

[1] Penned by Presiding Justice Conrado M. Vasquez, Jr., with Associate Justices Jose C. Mendoza (now a member of this Court) and Ramon M. Bato, Jr., concurring, *rollo* (G.R. No. 187587), pp. 62-82.

THE FACTS

The facts, as culled from the records, are as follows:

On 12 July 1957, by virtue of Proclamation No. 423, President Carlos P. Garcia reserved parcels of land in the Municipalities of Pasig, Taguig, Parañaque, Province of Rizal and Pasay City for a military reservation. The military reservation, then known as Fort William McKinley, was later on renamed Fort Andres Bonifacio (Fort Bonifacio).

On 28 May 1967, President Ferdinand E. Marcos (President Marcos) issued Proclamation No. 208, amending Proclamation No. 423, which excluded a certain area of Fort Bonifacio and reserved it for a national shrine. The excluded area is now known as *Libingan ng mga Bayani*, which is under the administration of herein respondent Military Shrine Services – Philippine Veterans Affairs Office (MSS-PVAO).

Again, on 7 January 1986, President Marcos issued Proclamation No. 2476, further amending Proclamation No. 423, which excluded *barangays* Lower Bicutan, Upper Bicutan and Signal Village from the operation of Proclamation No. 423 and declared it open for disposition under the provisions of Republic Act Nos. (R.A.) 274 and 730.

At the bottom of Proclamation No. 2476, President Marcos made a handwritten addendum, which reads:

> "P.S. – This includes Western Bicutan
> (SGD.) Ferdinand E. Marcos"[2]

The crux of the controversy started when Proclamation No. 2476 was published in the *Official Gazette*[3] on 3 February 1986, without the above-quoted addendum.

Years later, on 16 October 1987, President Corazon C. Aquino (President Aquino) issued Proclamation No. 172 which substantially reiterated Proclamation No. 2476, as published, but this time excluded Lots 1 and 2 of Western Bicutan from the operation of Proclamation No. 423 and declared the said lots open for disposition under the provisions of R.A. 274 and 730.

Memorandum Order No. 119, implementing Proclamation No. 172, was issued on the same day.

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[2] CA *rollo*, p. 664.
[3] Vol. 82, No. 5, pp. 801-805.

Through the years, informal settlers increased and occupied some areas of Fort Bonifacio including portions of the *Libingan ng mga Bayani*. Thus, Brigadier General Fredelito Bautista issued General Order No. 1323 creating Task Force Bantay (TFB), primarily to prevent further unauthorized occupation and to cause the demolition of illegal structures at Fort Bonifacio.

On 27 August 1999, members of petitioner Nagkakaisang Maralita ng Sitio Masigasig, Inc. (NMSMI) filed a Petition with the Commission on Settlement of Land Problems (COSLAP), where it was docketed as COSLAP Case No. 99-434. The Petition prayed for the following: (1) the reclassification of the areas they occupied, covering Lot 3 of SWO-13-000-298 of Western Bicutan, from public land to alienable and disposable land pursuant to Proclamation No. 2476; (2) the subdivision of the subject lot by the Director of Lands; and (3) the Land Management Bureau's facilitation of the distribution and sale of the subject lot to its bona fide occupants.[4]

On 1 September 2000, petitioner Western Bicutan Lot Owners Association, Inc. (WBLOAI) filed a Petition-in-Intervention substantially praying for the same reliefs as those prayed for by NMSMI with regard to the area the former then occupied covering Lot 7 of SWO-00-001302 in Western Bicutan.[5]

Thus, on 1 September 2006, COSLAP issued a Resolution[6] granting the Petition and declaring the portions of land in question alienable and disposable, with Associate Commissioner Lina Aguilar-General dissenting.[7]

The COSLAP ruled that the handwritten addendum of President Marcos was an integral part of Proclamation No. 2476, and was therefore, controlling. The intention of the President could not be defeated by the negligence or inadvertence of others. Further, considering that Proclamation No. 2476 was done while the former President was exercising legislative powers, it could not be amended, repealed or superseded, by a mere executive enactment. Thus, Proclamation No. 172 could not have superseded much less displaced Proclamation No. 2476, as the latter was issued on October 16, 1987 when President Aquino's legislative power had ceased.

In her Dissenting Opinion, Associate Commissioner Lina Aguilar-General stressed that pursuant to Article 2 of the Civil Code, publication is indispensable in every case. Likewise, she held that when the provision of the law is clear and unambiguous so that there is no occasion for the court to

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[4] Supra note 2, at 68-69.
[5] Id. at 72-76.
[6] Id. at 205-212.
[7] Id. at 213-218.

look into legislative intent, the law must be taken as it is, devoid of judicial addition or subtraction.[8] Finally, she maintained that the Commission had no authority to supply the addendum originally omitted in the published version of Proclamation No. 2476, as to do so would be tantamount to encroaching on the field of the legislature.

Herein respondent MSS-PVAO filed a Motion for Reconsideration,[9] which was denied by the COSLAP in a Resolution dated 24 January 2007.[10]

MSS-PVAO filed a Petition with the Court of Appeals seeking to reverse the COSLAP Resolutions dated 1 September 2006 and 24 January 2007.

Thus, on 29 April 2009, the then Court of Appeals First Division rendered the assailed Decision granting MSS-PVAO's Petition, the dispositive portion of which reads:

> IN VIEW OF ALL THE FOREGOING, the instant petition is hereby **GRANTED**. The Resolutions dated September 1, 2006 and January 24, 2007 issued by the Commission on the Settlement of Land Problems in COSLAP Case No. 99-434 are hereby **REVERSED and SET ASIDE**. In lieu thereof, the petitions of respondents in COSLAP Case No. 99-434 are **DISMISSED**, for lack of merit, as discussed herein. Further, pending urgent motions filed by respondents are likewise **DENIED**.
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> SO ORDERED.[11] (Emphasis in the original)

Both NMSMI[12] and WBLOAI[13] appealed the said Decision by filing their respective Petitions for Review with this Court under Rule 45 of the Rules of Court.

THE ISSUES

Petitioner NMSMI raises the following issues:

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> WHETHER OR NOT THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN RULING THAT PROCLAMATION NO. 2476 DID NOT INCLUDE ANY PORTION OF WESTERN BICUTAN AS

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[8] *Insular Lumber Co. v. Court of Tax Appeals*, 192 Phil. 221, 231 (1981).
[9] CA *rollo*, pp. 112-113.
[10] Id. at pp. 219-222.
[11] Id. at 1285.
[12] *Rollo (*G.R. No. 187587), pp. 39-61.
[13] *Rollo* (G.R. No. 187654), pp. 3-26.

THE HANDWRITTEN NOTATION BY PRESIDENT MARCOS ON THE SAID PROCLAMATION WAS NOT PUBLISHED IN THE OFFICIAL GAZETTE.

II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN RULING THAT PROCLAMATION NO. 172 LIKEWISE EXCLUDED THE PORTION OF LAND OCCUPIED BY MEMBER OF HEREIN PETITIONER.

III

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN NOT CONSIDERING THAT THE HON. COSLAP HAS BROAD POWERS TO RECOMMEND TO THE PRESIDENT INNOVATIVE MEASURES TO RESOLVE EXPEDITIOUSLY VARIOUS LAND CASES.[14]

On the other hand, petitioner WBLOAI raises this sole issue:

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE SUBJECT PROPERTY WAS NOT DECLARED ALIENABLE AND DISPOSABLE BY VIRTUE OF PROCLAMATION NO. 2476 BECAUSE THE HANDWRITTEN ADDENDUM OF PRESIDENT FERDINAND E. MARCOS INCLUDING WESTERN BICUTAN IN PROCLAMATION NO. 2476 WAS NOT INCLUDED IN THE PUBLICATION.[15]

Both Petitions boil down to the principal issue of whether the Court of Appeals erred in ruling that the subject lots were not alienable and disposable by virtue of Proclamation No. 2476 on the ground that the handwritten addendum of President Marcos was not included in the publication of the said law.

THE COURT'S RULING

We deny the Petitions for lack of merit.

Considering that petitioners were occupying Lots 3 and 7 of Western Bicutan (subject lots), their claims were anchored on the handwritten addendum of President Marcos to Proclamation No. 2476. They allege that the former President intended to include all Western Bicutan in the reclassification of portions of Fort Bonifacio as disposable public land when he made a notation just below the printed version of Proclamation No. 2476.

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[14] *Rollo (*G.R. No. 187587), p. 47.
[15] *Rollo* (G.R. No. 187654), pp. 15-16.

However, it is undisputed that the handwritten addendum was not included when Proclamation No. 2476 was published in the *Official Gazette*.

The resolution of whether the subject lots were declared as reclassified and disposable lies in the determination of whether the handwritten addendum of President Marcos has the force and effect of law. In relation thereto, Article 2 of the Civil Code expressly provides:

> ART. 2. Laws shall take effect after fifteen days following the completion of their publication in the Official Gazette, unless it is otherwise provided. This Code shall take effect one year after such publication.

Under the above provision, the requirement of publication is indispensable to give effect to the law, unless the law itself has otherwise provided. The phrase "unless otherwise provided" refers to a different effectivity date other than after fifteen days following the completion of the law's publication in the Official Gazette, but does not imply that the requirement of publication may be dispensed with. The issue of the requirement of publication was already settled in the landmark case *Tañada v. Hon. Tuvera,*[16] in which we had the occasion to rule thus:

> **Publication is indispensable in every case, but the legislature may in its discretion provide that the usual fifteen-day period shall be shortened or extended**. An example, as pointed out by the present Chief Justice in his separate concurrence in the original decision, is the Civil Code which did not become effective after fifteen days from its publication in the Official Gazette but "one year after such publication." The general rule did not apply because it was "otherwise provided."
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> It is not correct to say that under the disputed clause publication may be dispensed with altogether. The reason is that such omission would offend due process insofar as it would deny the public knowledge of the laws that are supposed to govern it. Surely, if the legislature could validly provide that a law shall become effective immediately upon its approval notwithstanding the lack of publication (or after an unreasonably short period after publication), it is not unlikely that persons not aware of it would be prejudiced as a result; and they would be so not because of a failure to comply with it but simply because they did not know of its existence. Significantly, this is not true only of penal laws as is commonly supposed. One can think of many non-penal measures, like a law on prescription, which must also be communicated to the persons they may affect before they can begin to operate.
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> The term "laws" should refer to all laws and not only to those of general application, for strictly speaking all laws relate to the people in general albeit there are some that do not apply to them directly. An

[16] 230 Phil. 528, 533-538 (1986).

example is a law granting citizenship to a particular individual, like a relative of President Marcos who was decreed instant naturalization. It surely cannot be said that such a law does not affect the public although it unquestionably does not apply directly to all the people. **The subject of such law is a matter of public interest which any member of the body politic may question in the political forums or, if he is a proper party, even in the courts of justice.** In fact, a law without any bearing on the public would be invalid as an intrusion of privacy or as class legislation or as an u*ltra vires* act of the legislature. To be valid, the law must invariably affect the public interest even if it might be directly applicable only to one individual, or some of the people only, and not to the public as a whole.

We hold therefore that **all statutes, including those of local application and private laws, shall be published as a condition for their effectivity, which shall begin fifteen days after publication unless a different effectivity date is fixed by the legislature**.

Covered by this rule are presidential decrees and executive orders promulgated by the President in the exercise of legislative powers whenever the same are validly delegated by the legislature or, at present, directly conferred by the Constitution. Administrative rules and regulations must also be published if their purpose is to enforce or implement existing law pursuant also to a valid delegation.

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Accordingly, even the charter of a city must be published notwithstanding that it applies to only a portion of the national territory and directly affects only the inhabitants of that place. **All presidential decrees must be published**, including even, say, those naming a public place after a favored individual or exempting him from certain prohibitions or requirements. The circulars issued by the Monetary Board must be published if they are meant not merely to interpret but to "fill in the details" of the Central Bank Act which that body is supposed to enforce.

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We agree that the publication must be in full or it is no publication at all since its purpose is to inform the public of the contents of the laws. As correctly pointed out by the petitioners, the mere mention of the number of the presidential decree, the title of such decree, its whereabouts (e.g., "with Secretary Tuvera"), the supposed date of effectivity, and in a mere supplement of the Official Gazette cannot satisfy the publication requirement. This is not even substantial compliance. This was the manner, incidentally, in which the General Appropriations Act for FY 1975, a presidential decree undeniably of general applicability and interest, was "published" by the Marcos administration. The evident purpose was to withhold rather than disclose information on this vital law.

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Laws must come out in the open in the clear light of the sun instead of skulking in the shadows with their dark, deep secrets. **Mysterious pronouncements and rumored rules cannot be recognized as binding unless their existence and contents are confirmed by a**

> **valid publication intended to make full disclosure and give proper notice to the people**. The furtive law is like a scabbarded saber that cannot feint, parry or cut unless the naked blade is drawn. (Emphases supplied)

Applying the foregoing ruling to the instant case, this Court cannot rely on a handwritten note that was not part of Proclamation No. 2476 as published. Without publication, the note never had any legal force and effect.

Furthermore, under Section 24, Chapter 6, Book I of the Administrative Code, "[t]he publication of any law, resolution or other official documents in the Official Gazette shall be prima facie evidence of its authority." Thus, whether or not President Marcos intended to include Western Bicutan is not only irrelevant but speculative. Simply put, the courts may not speculate as to the probable intent of the legislature apart from the words appearing in the law.[17] This Court cannot rule that a word appears in the law when, evidently, there is none. In *Pagpalain Haulers, Inc. v. Hon. Trajano*,[18] we ruled that "[u]nder Article 8 of the Civil Code, '[j]udicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.' This does not mean, however, that courts can create law. The courts exist for interpreting the law, not for enacting it. To allow otherwise would be violative of the principle of separation of powers, inasmuch as the sole function of our courts is to apply or interpret the laws, particularly where gaps or *lacunae* exist or where ambiguities becloud issues, but it will not arrogate unto itself the task of legislating." The remedy sought in these Petitions is not judicial interpretation, but another legislation that would amend the law to include petitioners' lots in the reclassification.

WHEREFORE, in view of the foregoing, the instant petitions are hereby **DENIED** for lack of merit. The assailed Decision of the Court of Appeals in CA-G.R. CV No. 97925 dated 29 April 2009 is **AFFIRMED** *in toto*. Accordingly, this Court's status quo order dated 17 June 2009 is hereby **LIFTED**. Likewise, all pending motions to cite respondent in contempt is **DENIED,** having been rendered moot. No costs.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

[17] *Aparri v. CA*, 212 Phil. 215, 224 (1984).
[18] 369 Phil. 617, 626 (1999).

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice