

POLITICAL LAW

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FAILURE TO PUBLISH PREXY'S NOTE VOIDS AMENDMENT

The Supreme Court in *Nagkakaisang Maralita ng Sitio Masigasig v. Military Shrine Services – Philippine Veterans Affairs Office* (G.R. Nos. 187587, 187654, June 5, 2013) nullified the revision made by President Ferdinand Marcos on his own proclamation when the government failed to include the former president's insertion in the published version of the law.

This case stems from a series of presidential proclamations issued by Presidents Garcia, Marcos and Aquino concerning several parcels of land that comprise the area now known as Fort Bonifacio.

Originally declared as closed for disposition for being part of a military reservation in 1957, Fort Bonifacio's land area was reduced pursuant to Marcos' issuance of Proclamation No. 423. The proclamation converted part of Fort Bonifacio into a national shrine now known as *Libingan ng mga*

Bayani, which is currently under the administration of the Military Shrine Services – Philippine Veterans Affairs Office.

In 1986, Marcos issued Proclamation No. 2476 to amend No. 423. The law excluded barangays Lower Bicutan, Upper Bicutan and Signal Village from the operation of the previous proclamation and declared these areas open for disposition to the public.

At the bottom portion of No. 2476, Marcos made a handwritten and countersigned addendum stating that Western Bicutan was likewise declared open for disposition.

The Marcos proclamation was later published in the Official Gazette but it did not include his handwritten addendum. When President Corazon Aquino assumed power, she issued Proclamation No. 172 which substantially reiterated No. 2476, but this time excluded Lots 1 and 2 of Western Bicutan from the operation of No. 423 and declared said

lots open for disposition.

Informal settlers increased through the years and occupied some areas of Fort Bonifacio including portions of the *Libingan ng mga Bayani*. The military created Task Force Bantay to primarily prevent further unauthorized occupation and to cause the demolition of illegal structures at Fort Bonifacio.

In 1999, *Nagkakaisang Maralita ng Sitio Masigasig* (NMSM) filed a petition with the Commission on Settlement of Land Problems (COSLAP) praying for (1) the declaration of Lot 3 of Western Bicutan, the area that they were occupying, to be converted from public land to alienable and disposable land; (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 land to its occupants.

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COSLAP granted the Petition and declared the portions of the land in question as alienable and disposable. The Court of Appeals reversed the COSLAP decision.

The High Court affirmed the appellate court's ruling and found that the handwritten addendum of Marcos in No. 2476 does not have the force and effect of the law as this

portion of the proclamation was not published. Article 2 of the Civil Code expressly provides that laws take effect after the completion of its publication in the Official Gazette.

As held in *Tañada v. Tuvera* (230 Phil. 528, 533-538 [1986]), the Court said that publication is an indispensable requirement in order for a law to

become effective. The term law covers presidential decrees, executive orders, local ordinances and others which invariably affect public interest. The *Tañada* case also held that "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." *LF*©June 27, 2013

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