

THIRD DIVISION

[G. R. NO. 155181, April 15, 2005]

**LIBERTY AYO-ALBURO, PETITIONER, VS. ULDARICO MATOBATO,
RESPONDENT.**

DECISION

CARPIO MORALES, J.:

Being assailed via petition for review on certiorari under Rule 45 of the Rules of Court is the August 28, 2002 Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 49406 which dismissed the petition for review of Liberty Ayo-Alburo (petitioner).

The controversy in the case at bar involves a parcel of private agricultural land primarily devoted to rice with an area of 1.787 hectares situated at Barangay San Pedro, Alangalang, Leyte (the property) which was owned by Dr. Victoria Marave-Tiu.

On October 21, 1972, then President Marcos issued Presidential Decree No. 27 (P.D. 27),^[2] otherwise known as the Tenant Emancipation Decree, which transfers to qualified tenant-farmers the ownership of the lands they till. The Decree is applicable to agricultural lands primarily devoted to rice and corn.

As the property was covered by Operation Land Transfer pursuant to P.D. 27, Dr. Marave-Tiu submitted to the Department of Agrarian Reform (DAR) a list of the names of her farmer-tenants including petitioner's adoptive father Estanislao Ayo (Estanislao) who was also administrator of the property.

The property was eventually awarded to Estanislao who, being at that time already old and sickly, requested that it be instead registered in the name of petitioner. The request was granted.^[3]

Certificate of Land Transfer No. D-038564^[4] covering the property was thus issued in petitioner's name on April 23, 1984. And Emancipation Patent No. A-025173^[5] with the corresponding Transfer Certificate of Title (TCT) No. TE-775^[6] covering the property was subsequently issued in petitioner's favor on March 5, 1987.

The Department of Agrarian Reform, represented by the Provincial Agrarian Reform Officer of Leyte and its Regional Director for Region VIII, and Uldarico Matobato (respondent) later filed a Petition dated April 2, 1996 before the Provincial Agrarian Reform Adjudicator (PARAD) of Tanghas, Tolosa, Leyte, docketed as DARAB Case No. R-0801-0016-96, for the cancellation of the Certificate of Land Transfer and Emancipation Patent issued in petitioner's favor and for the issuance of a new certificate and patent in respondent's name.

Respondent alleged that since 1966 until the filing of the petition before the PARAD, he had been cultivating the property and giving shares of the harvest as rentals to petitioner; and that the Certificate of Land Transfer and Emancipation Patent had been issued to petitioner "due to a possible oversight, inadvertence and excusable neglect," she not having ever been engaged in the actual cultivation and tillage of the property.

As of April 20, 1996, petitioner had fully paid to the Land Bank the amortization for the property.^[7]

In her Answer^[8] dated May 25, 1996, petitioner countered that respondent, whose farm lot was adjacent to the property, had indeed planted rice seedlings on the property but that was only in 1985 and only upon tolerance by her family, respondent having pleaded to her uncle, Mauricio Ayo, to allow him to plant his excess rice seedlings thereon.

By Decision^[9] of September 25, 1996, the PARAD found in respondent's favor. The dispositive portion of the decision reads, quoted *verbatim*:

WHEREFORE, premises considered decision (sic) is hereby rendered in favor of the private petitioner and against the private respondent:

1. Ordering the Register of Deeds of Leyte to cancell (sic) TCT NO. TE-775 with Emancipation Patent No. A-025173 containg (sic) an area of 17,870 square meters located at Barangay San Pedro, Alangalang, Leyte in the name of Liberty Ayo;
2. Declaring the said title null and void;
3. Ordering the DAR Provincial Office, Tanghas, Tolosa, Leyte, Attention: Operations Division to process the reallocation of the land covered by TCT No. TE 775, EP No. A-025173 registered in the name of Liberty Ayo in favor of Uldarico Matobato;
4. Ordering the Register of Deeds Province of Leyte in coordination with the DAR Provincial Office, Tanghas, Tolosa, Leyte to issue a new title and register covering subject landholding in favor of Uldarico Matobato as reallocatee and;
5. Ordering the forfieture (sic) of the land amortization payment paid in the name of Liberty Ayo in favor of the reallocatee Uldarico Matobato. (Underscoring supplied)

SO ORDERED.^[10]

In finding for respondent, the PARAD reasoned:

From 1985 up to the present, it is the private petitioner who tilled the land and gave shares to the private respondent. He also paid the land amortization with the Land Bank in 1985 and 1986. In effect private respondent has taken the shoes of a landlord, an inimical practice the Agrarian Reform Program among others is designed to abolish if not

eradicate. Having tolerated private petitioner in the cultivation of the land in question and received shares for the past eleven (11) years is no different at all from having installed a tenant. Farmer beneficiaries are prohibited from installing tenants on the land they acquired under P.D. 27. xxx even a transfer of the right to use or cultivate the land constitutes a grave violation of P.D. 27 and its implementing rules and regulation. xxx

xxx the sanction is not limited to cancellation of the Emancipation Patent (EP) and Certificate of Landownership (CLOA) but among others reallocation of the land to qualified beneficiary.

A perusal of the evidence on record does not show of any disqualification on the part of private petitioner as reallocatee of the land in question. The only issue raised against him is that he is not a tenant of the Marave's Estate. But it is fact that in 1985, private respondent and her uncle, Mauricio Ayo have allowed private petitioner to cultivate the land continuously up to 1996, when the relationship of the parties became estranged. In 1986 when private petitioner did not give shares private respondent through her uncle, Mauricio Ayo moved to get back the land. Nevertheless, private petitioner continued the cultivation because of their friendship, lack of funds on the part of private respondent to operate the cultivation, assurance of her share every harvest and the payment of the land amortization with Land Bank by the private petitioner. It maybe posed therefore who now deserves the land under P.D. 27? Admittedly, Estanislao Ayo, the administrator-tenant had it registered in the name of private respondent during the land distribution in 1981 a short cut to succession because Estanislao Ayo was already sickly in fact he died on February 5, 1985 after the CLT was issued to private respondent in April of 1984. Perhaps, for humanitarian reason the DAR Officials of Alangalang, Leyte, Oscar Ripalda and Romulo Bacale did not consider the identification of private respondent irregular on the honest belief that upon the death of Estanislao Ayo, private respondent, assuming that she is the only heir, would succeed (sic) the land anyway. Nevertheless, the stubborn fact remains that from 1985 continuously up to the present it is private petitioner who cultivated the land as tenant with private respondent as landlord.^[11]

Petitioner filed a Motion for Reconsideration^[12] of the PARAD decision but it was denied for lack of merit by Order^[13] of November 7, 1996 in this wise:

In the case at bar, it has been established that [respondent] has for long a period been in cultivation of the land in question and have (sic) shared produce with [petitioner].

Finally, cancellation of Emancipation Patent and its reallocation to other beneficiary is governed by PD 27, Executive Order No. 228 and its implementing rules and regulation. Acquisition of land under PD 27 is distinct from other system of titling of alienable and disposable land in that under PD 27 the title may be cancelled even after one (1) year from issuance of title if it (sic) shown that the beneficiary has transferred its

use to another person before full payment of its land value.^[14]
(Underscore supplied)

On appeal by petitioner to the Department of Agrarian Reform Adjudication Board (DARAB), the DARAB, by Decision^[15] of June 29, 1998, affirmed *in toto* the September 25, 1996 PARAD Decision.

Petitioner thus filed before the CA a Petition for Review^[16] which, by Decision of August 28, 2002, denied the same.

Apart from echoing the ratiocination of the DARAB, the CA explained:

Even assuming that the Emancipation Patent issued to the petitioner is valid, a careful perusal of the case shows that she had committed a violation of the terms and conditions of the Land Title xxx

Markedly absent in the case of the petitioner is the element of "personal" cultivation. Both the PARAD and the DARAB found that the petitioner herself did not actually cultivate the land, nor did her immediate family or farm household. Instead, she permitted and actually engaged the service of the private respondent to do the farm work in exchange for the payment of the land amortization and shares in the produce of the land.

In Administrative Order No. 3, Series of 1990, the Municipal Agrarian Reform Officer (MARO) or the duly designated official covering the area is authorized to cancel the Order of Award (OA)/Certificate of Land Transfer (CLT) and issue to qualified/actual cultivator/occupant if the applicant (beneficiary), with Order of Award/Certificate of Land Transfer, is not the actual cultivator occupant of the land in question.

Likewise, Administrative Order No. 02, Series of 1994, provides that:

"The decision of the DARAB may include cancellation of registered EP/CLOA, reimbursement of lease rental as amortization to ARBs (Agrarian Reform Beneficiaries), forfeiture of amortization, ejectment of ARB, reallocation of the land to qualified beneficiary, perpetual disqualification to become an ARB, reimbursement of amortization payment and value of improvements, and other ancillary matters related to the cancellation of the EP or CLOA."^[17] (Underscore supplied)

Hence, the present petition for review on certiorari^[18] faulting the CA as follows:

I

THE COURT OF APPEALS HAD DECIDED THE INSTANT CASE IN A WAY PROBABLY NOT IN ACCORD WITH LAW OR WITH APPLICABLE DECISIONS OF THE SUPREME COURT WHEN IT SET ASIDE THE EMANCIPATION PATENT OF PETITIONER AFTER IT HAD LONG BEEN ISSUED

II

THE COURT OF APPEALS HAS DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF PROCEEDINGS, OR SO FAR SANCTIONED SUCH DEPARTURE BY THE DEPARTMENT OF AGRARIAN REFORM AS TO CALL FOR AN EXERCISE OF THE POWER OF SUPERVISION WHEN IT AFFIRMED THAT PETITIONER WAS GUILTY OF VIOLATING THE TERMS AND CONDITIONS OF THE CERTIFICATE OF LAND TRANSFER AND EMANCIPATION PATENT.

III

THE COURT OF APPEALS HAS DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF PROCEEDINGS, OR SO FAR SANCTIONED SUCH DEPARTURE BY THE DEPARTMENT OF AGRARIAN REFORM AS TO CALL FOR AN EXERCISE OF THE POWER OF SUPERVISION WHEN IT AFFIRMED THE AWARD OF THE PROPERTY IN FAVOR OF PRIVATE RESPONDENT.

IV

THE COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE NOT THERETOFORE DETERMINED BY THE SUPREME COURT, OR HAS DECIDED IT IN A WAY PROBABLY NOT IN ACCORD WITH LAW OR WITH APPLICABLE DECISIONS OF THE SUPREME COURT WHEN IT ORDERED THE FORFEITURE OF THE AMORTIZATION PAID BY PETITIONER IN FAVOR OF PRIVATE RESPONDENT.

V

THE COURT OF APPEALS HAS DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF PROCEEDINGS, OR SO FAR SANCTIONED SUCH DEPARTURE BY THE DEPARTMENT OF AGRARIAN REFORM AS TO CALL FOR AN EXERCISE OF THE POWER OF SUPERVISION WHEN IT AFFIRMED THE DECISION OF THE LATTER BASED ON ISSUES AND FACTS NOT DULY RAISED IN THE COMPLAINT BELOW.^[19]

P.D. 27 was anchored upon the fundamental objective of addressing valid and legitimate grievances of land ownership giving rise to violent conflict and social tension in the countryside.^[20] It called for reformation to start with the emancipation of the tiller from the bondage of the soil^[21] and encourage a more productive agricultural base of the country's economy. To achieve this end, the decree laid down a system for the purchase by small farmers, long recognized as the backbone of the economy, of the lands they were tilling.^[22]

With the emancipation of farmer-tenants, they were deemed owners of the land they were tilling and were granted the right to possess, cultivate and enjoy the landholding for themselves.^[23]

Petitioner thus argues that since an emancipation patent and a TCT had been issued to her, her ownership of the property had become conclusive and no longer open to doubt or controversy.^[24] Petitioner's argument fails.