

# FIRST DIVISION

[ G.R. No. 190682, February 13, 2019 ]

**PAUL C. DAGONDON, PETITIONER, VS. ISMAEL LADAGA,  
RESPONDENT.**

## DECISION

**BERSAMIN, C.J.:**

The petitioner appeals the adverse decision promulgated on February 25, 2009,<sup>[1]</sup> whereby the Court of Appeals (CA) reversed the ruling handed down in his favor by the Department of Agrarian Reform Adjudication Board (DARAB) and declared that the respondent's Emancipation Patent No. 010271<sup>[2]</sup> as well as the corresponding Original Certificate of Title No. EP-169<sup>[3]</sup> were valid and subsisting.

The CA further denied the petitioner's motion for reconsideration through the resolution promulgated on November 17, 2009.<sup>[4]</sup>

### Antecedents

In the early 1970's, the parcel of riceland consisting of 4,147 square meters (subject property) owned by Jose L. Dagondon was placed under the coverage of Operation Land Transfer (OLT) pursuant to Presidential Decree No. 27 (P.D. No. 27).<sup>[5]</sup> The respondent, who was the tenant of Jose L. Dagondon, was declared the beneficiary of the coverage.<sup>[6]</sup>

The petitioner, one of the children of Jose L. Dagondon, filed a protest with the Ministry of Agrarian Reform (MAR) on the basis that the subject property was exempt from the coverage of P.D. No. 27 because the income derived therefrom had been inadequate to support the landowner and his family.<sup>[7]</sup> Both the Provincial and Regional Offices of the MAR denied the protest.<sup>[8]</sup>

Consequently, the petitioner appealed to the MAR, which also denied the protest through its order dated February 28, 1986 issued by then Minister Conrado Estrella (Estrella Order).<sup>[9]</sup>

The petitioner moved to reconsider the denial of the protest on August 21, 1986, but the protest was not immediately acted upon.<sup>[10]</sup>

On March 5, 1987, Minister Heherson T. Alvarez authorized the issuance in favor of the respondent of Original Certificate of Title No. EP-169 based on Emancipation Patent No. 010271 pertaining to the subject property. Emancipation Patent No. 010271 was registered with the Registry of Deeds of the Province of Camiguin on August 24, 1988.<sup>[11]</sup>

On August 29, 1994, the petitioner filed another protest with the Department of Agrarian Reform (DAR) whereby he reiterated that the income derived from his father's landholding was insufficient to support the needs of the landowner's family.  
[12]

Treating the protest of the petitioner as a motion for reconsideration vis-a-vis the Estrella Order, DAR Secretary Ernesto Garilao issued an order on February 21, 1995 setting aside the Estrella Order, and exempting the subject property from the coverage of P.D. No. 27. In the order, DAR Secretary Garilao explained that agricultural land could be exempt from the coverage of the OLT upon proof of the landowner's inability to derive adequate income therefrom to support himself and his family; that because the investigation report rendered in relation to the subject property showed that the income derived by the landowner from his land was not adequate to support his family, the subject property was exempt from the coverage of OLT.  
[13]

The respondent moved for reconsideration. However, the motion for reconsideration was denied through the order dated April 19, 1996.  
[14]

The Provincial Office of the DAR in Camiguin appealed to the Office of the President (OP), which dismissed the appeal through the decision dated September 12, 2002.  
[15]

After the respondent did not move for reconsideration or did not appeal from the OP decision dated September 12, 2002,  
[16] the petitioner brought his petition for the cancellation of Emancipation Patent Title No. 169 and for the reconveyance of the subject property in the Provincial Agrarian Reform Office (PARO) in Mambajao, Camiguin.  
[17]

On July 28, 2003,  
[18] the PARO rendered its decision in favor of the petitioner, ruling thusly:

**WHEREFORE**, the foregoing premises considered, decision is hereby rendered:

**(1)** Directing the Register of Deeds of Camiguin to cancel Original Certificate of Title no. EP-169 issued in the name of respondent Ismael Ladaga and to reinstate the title of ownership of the late Jose Dagondon if any; or for the municipal assessor to reinstate or re-issue the previous Tax Declaration covering said property in the name of the late Jose Dagondon;

**(2)** For the MARO of DAR, Mambajao, Camiguin to place the subject landholding under leasehold with petitioner as the lessor being the land Administrator and herein private respondent;

**(3)** For respondent Ismael Ladaga to account for and pay the petitioner the landowners' share of the harvest of the landholding reckoned from September 12, 2002 based on their previous sharing up until a leasehold contract shall have been executed;

**(4)** For the Land Bank of the Philippines (Camiguin Branch) to disburse and/or release the amount paid for by respondent Ismael Ladaga for the value of the subject landholding in favor of herein petitioner Paul Dagondon which is hereby constituted as reasonable rentals of the landholding.

All other claims are **DENIED** for lack of basis.

**SO ORDERED.**<sup>[19]</sup>

The respondent appealed to the DARAB, which denied his appeal on April 1, 2005,<sup>[20]</sup> disposing as follows:

WHEREFORE, premises considered, instant appeal is dismissed and the decision appealed from is hereby **AFFIRMED IN TOTO**.

**SO ORDERED.**<sup>[21]</sup>

The respondent appealed by petition for review to the CA, which stated the threshold issue to be "the authority of the Secretary of the Department of Agrarian Reform to reverse and set aside the Order of his predecessor which already attained finality."<sup>[22]</sup>

As earlier mentioned, the CA promulgated the assailed decision on February 25, 2009, *to wit*:

**ACCORDINGLY**, the petition is **GRANTED**. The assailed Decision dated April 1, 2005, of the Department of Agrarian Reform Adjudication Board in DARAB CASE No. 12583, and the Order dated February 21, 1995, of the former Secretary of the Department of Agrarian Reform Ernesto Garilao, exempting the 4,147 square meters of riceland from the coverage of Presidential Decree No. 27 is **REVERSED** and **SET ASIDE**. The Emancipation Patent No. 010271 and the corresponding Original Certificate of Title No. EP-169 issued to Ismael Ladaga is hereby declared **VALID** and **SUBSISTING**.

**SO ORDERED.**<sup>[23]</sup>

The petitioner moved to reconsider but the CA denied his motion on

November 17, 2009.<sup>[24]</sup>

Hence, this appeal, wherein the petitioner insists that:

1. The Decision of the Court of Appeals is based on the Estrella Order which is null and void.
2. Secretary Garilao was not ousted of jurisdiction to review the Estrella Orders.

3. The property is not subject of Operation Land Transfer (OLT).
4. The DARAB-Central Decision dated April 1, 2005 and its June 30, 2006 Resolutions granted what is, in actuality, a motion for execution of a decision which has attained finality.
5. The proper remedy of the respondent in assailing the grant of the petition for exemption should have been to appeal the decision in said case.
6. The Emancipation Patent did not attain indefeasibility.<sup>[25]</sup>

The petitioner argues that the Estrella Order did not attain finality considering that it was based on MAR Ministry Circular No. 11 that was unenforceable because of lack of publication, as ruled by Secretary Garilao and enunciated in *Association of Small Landowners in the Phil., Inc. v. Seceretary of Agrarian Reform*, G.R. No. 78742, July 14, 1989, 175 SCRA 343; that OLT coverage requires the landowner to have other agricultural lands with an aggregate area of more than seven hectares and for the landowner to derive adequate income from the other agricultural lands; that the subject property does not qualify for coverage under the OLT because the aggregate lands of the late Jose L. Dagondon did not produce adequate income; that the issuance, recall or cancellation of CLTs fell within Secretary Garilao's jurisdiction as the implementor of P.D. No. 27; that Secretary Garilao's order dated February 21, 1995 already attained finality when the respondent did not pursue further remedies; that the cancellation of the emancipation patent was a mere post-judgment incident and the necessary consequence of the finality of the order of Secretary Garilao, as affirmed by the OP; and that the DAR Secretary has the authority to order the cancellation of the emancipation patent upon a finding that its issuance violated agrarian laws.<sup>[26]</sup>

In rebuttal, the respondent submits that the Estrella Order had already attained finality because the petitioner permitted the lapse of 174 days before filing his motion for reconsideration vis-a-vis the Estrella Order; that the decision of the DAR became final and executory 15 days after the receipt of the copy thereof by the petitioner as the party thereby adversely affected; that any decision or order that acquired finality could no longer be modified in any respect; that the issue on the non-publication of the MAR Ministry Circular No. 11 rendering it null and void was evidently self-serving; that MAR Ministry Circular No. 11 had not been invalidated or declared void by proper authority; and that the DARAB could no longer cancel the respondent's certificate of title.<sup>[27]</sup>

### **Ruling of the Court**

The appeal is meritorious.

The Court notes that this recourse emanated from the action commenced by the petitioner before the PARO in the Province of Camiguin entitled *CANCELLATION OF EMANCIPATION PATENT NO EP-169 ISSUED TO ISMAEL LADAGA AND FOR THE RE-CONVEYANCE OF TITLE TO THE HEIRS OF LATE JOSE L. DAGONDON, EXERCISE OF RETENTION RIGHTS, ISSUANCE OF A NEW CERTIFICATE OF AGRICULTURAL LEASEHOLD (CAL) IN FAVOR OF ISMAEL LADAGA, COMPUTATION AND COLLECTION*