

FIRST DIVISION

[G.R. No. 228503, July 25, 2018]

HEIRS OF RAMON ARCE, SR., PETITIONERS, V. DEPARTMENT OF AGRARIAN REFORM, REPRESENTED BY SECRETARY VIRGILIO DELOS REYES, RESPONDENT.

DECISION

TIJAM, J.:

We resolve this petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, assailing the Decision^[2] dated August 5, 2016 and the Resolution^[3] dated November 28, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 140755.

The Antecedent Facts

As early as the 1950s, even before the advent of Republic Act (RA) No. 6657,^[4] otherwise known as the Comprehensive Agrarian Reform Law (CARL) of 1988, through which the State implements its policy for a Comprehensive Agrarian Reform Program (CARP), the Heirs of Ramon Arce, Sr., namely, Eulalio Arce, Lorenza Arce, Ramon Arce, Jr., Mauro Arce and Esperanza Arce, (petitioners) were registered owners of a parcel of land located in Brgy. Macabud, Montalban, Rizal with an area of 76.39 hectares (ha.), covered by Transfer Certificates of Title Nos. T-442673, 442674, 442675, and 442676 (referred to as subject lands). The subject lands were utilized as pasture lands for the petitioners' cattle, i.e., buffaloes, carabaos and goats (hereinafter referred to as livestock), for milk and dairy production in the manufacture of Selecta Carabao's Milk and Ice Cream (now Arce Dairy Ice Cream).^[5] The farming method adopted by the petitioners was known as "feedlot operation" where the animals were confined and fed on a cut-and-carry basis or zero grazing.^[6]

Sometime in 1998, the Philippine Carabao Center-Department of Agriculture (PCC-DA) recommended that petitioners' livestock be transferred to avoid the liver fluke infestation in the area. In compliance with PCC-DA's recommendation, petitioners transferred the older and milking livestock, which are susceptible to infection, to their feedlot facility located in Novaliches, Quezon City (Novaliches property). The younger cattle, which are not susceptible to the fluke infection, remained in the subject lands.^[7]

Notwithstanding the transfer of some of their livestock, petitioners continued to plant and grow napier grass in the subject lands. The napier grass were then cut, carried and used as fodder for their livestock which were maintained both in the subject lands and in the Novaliches property.^[8]

On August 6, 2008, the Provincial Agrarian Reform Officer (PARO) of Teresa, Rizal issued a Notice of Coverage (NOC)^[9] over the subject lands under the CARP. In

response, petitioners sent a letter^[10] dated October 17, 2008 to the PARO of DAR Region IV-A, seeking to exclude and exempt the subject lands from the NOC considering that it has been utilized for livestock raising even before the enactment of the CARP. To prove this, the petitioners enclosed documents,^[11] among them were: Certificates of Ownership of Large Cattle registered under the name of Mauro Arce; Photocopy of Livestock Inventory as of December 1987 stating that they have 102 registered cattle, 125 unregistered cattle and 212 heads of goats; Current photos taken on September 17, 2008 of the Arce livestock farm, feeding, and milking techniques, the milk processing and ice cream making machinery at the Arcefoods Plant on Selecta Drive in Balintawak, Quezon City; Current (2008) Certificates of Ownership of 104 heads of cattle under the name of Mauro Arce/Selarce Farms, Inc; and, Photocopy of Livestock Inventory in the Year 2008 showing 150 heads of large cattle. The PARO of DAR Region IV-A considered the letter as a Petition for Exclusion from CARP Coverage.^[12]

On December 2, 2008, Municipal Agrarian Reform Officer (MARO) of DAR Region IV-A, issued a Report and Recommendation and recommended the grant of the Petition for Exclusion from CARP Coverage. The Report stated, among others, that:

xxx the method of farming practiced by the Arce Farm is by feed rearing. This means that the animals are not freely grazing in the open field but instead are confined separately in a feedlot where they are fed and milked; xxx pasture grass of 76 hectares subject landholdings serve as food production area to provide the feed requirements of the animals reared in a separate area; xxx the existence of large cattle is evidently proven by Certificates of Ownership of Large Cattle presented by the landowners, the existence of such cover the years 1981 to present; xxx inspection conducted at the feedlot facility xxx at Novaliches xxx there exists 7 buildings where different livestock are fed/housed. xxx. ^[13]

xxx the clear scenario xxx is that (the subject property) has been a livestock farm and it continues to exist until now under the exclusive operation and management of its owner, regardless of the method (traditional or modern) of farming xxx.^[14]

On March 4, 2009, the Legal Division of the DAR Provincial Office (DARPO) issued an Evaluation Report and Recommendation and likewise recommended the grant of the Petition for Exclusion from CARP Coverage. The Evaluation Report stated, among others, that:

xxx the subject properties, which are undulating in topography and predominantly more than 18% slope are registered in the names of Heirs of Ramon Arce, Sr., and is not devoted to any agricultural activity by any person, but actually and directly devoted to the production of napier grass for feeding purposes by Selarce Farms, owned by the applicant Heirs;^[15] xxx there were employees of the applicant who were actually gathering napier grasses on the subject properties to meet the daily needs of the cattles, buffaloes and goats in the Feed and Fattening Facility which they declared that they used to cut and gather napier grass at the volume of 6 tons of napier grasses daily;^[16] xxx the aggregate area of the property of 76.3964 hectares has been actually, directly, exclusively devoted to livestock (cattle, buffaloes/*carabaos*, and goats)

for milk and dairy production since the 1960s, or long before the advent of the CARP Law in 1988;^[17] xxx the applicant has fully complied with all the requirements under DAR A.O. No. 7, Series of 2008 and AO. No. 9, Series of 1993;^[18] and xxx the confinement of cattles, buffalos/carabaos and goats in a separate place other than the herein subject properties are but necessary for health and sanitary reasons, there is the chain of connection of the utilization of the livestocks exclusively and directly from farm to livestock facility; xxx^[19]

On September 30, 2009, the petitioners filed a Manifestation to Lift Notice of Coverage with the PARO, which was treated as a petition and docketed as Case No. A-0400-0250-09 of DAR Regional Office IV-A with the PARO.^[20] This was anchored on the ground that petitioners were in the business of livestock raising, and were using the subject lands as pasture lands for their buffaloes which produce the carabao milk for their ice cream products. The petitioners claimed that the NOC is contrary to the 1987 Philippine Constitution which provides that livestock farms are not among those described as agricultural lands subject to land reform.

On November 20, 2009, Rommel Bote, Attorney II of DARPO, submitted a Memorandum addressed to DARPO's Chief of Legal Division, indicating therein that the petition is meritorious and thus, recommending the lifting of the NOC upon the subject lands.^[21]

Based on these findings, DAR Regional Director Antonio G. Evangelista (RD Evangelista) issued an Order^[22] dated December 22, 2009, granting the Petition to Lift Notice of Coverage, the dispositive portion of which reads, thus:

WHEREFORE, premises considered, the Petition for Lifting of Notice of Coverage filed by the Heirs of Ramon S. Arce, Sr. represented by Rodolfo S. Arce, namely: 1. Eulalio Arce, 2. Lorenza Arce, 3. Ramon Arce, Jr., 4. Mauro Arce, and 5. Esperanza Arce involving four (4) parcels of land covered by TCT Nos. 442673 (17.3645 hectares), 442674 (40.5424 hectares), 442675 (15.6485 hectares), and 442676 (2.8410 hectares), with an aggregate area of 76.3964 located at Brgy. Macabuid, Rodriguez, Rizal is hereby **GRANTED**.^[23]

On April 29, 2011, RD Evangelista issued a Certification,^[24] stating that the Order dated December 22, 2009 had become final and executory, considering that no motion for reconsideration and/or appeal was filed.

Meanwhile, Joevin M. Ucag (Ucag) of DAR Region IV-A submitted an Ocular Inspection Report dated May 12, 2011 to the MARO, stating that "there was no livestock/cattle found in the area of Macabud, Rodriguez, Rizal".^[25]

Subsequently, the Samahan ng mga Magsasakang Nagkakaisa sa Sitio Calumpit (SAMANACA), through their leaders, sent letters dated March 2, 2011 and June 14, 2011, to DAR Secretary Virgilio R. De Los Reyes (Secretary De Los Reyes), seeking to annul RD Evangelista's Order dated December 22, 2009. The letters were treated as a Petition to Annul an Invalid Resolution by the Regional Director.^[26]

On November 8, 2011, petitioners filed their Comment and countered that RD Evangelista's Order dated December 22, 2009 had become final and executory and

that the subject lands were within the retention limit. Thus, they prayed for the dismissal of SAMANACA's Letters-Petition.^[27]

On December 7, 2012, DAR Secretary De Los Reyes issued an Order,^[28] denying petitioners' Petition for Exclusion from CARP Coverage. The DAR ruled, among others, that while it is true that the subject lands had been a livestock farm prior to the CARP's enactment, the petitioners failed to prove that the said lands are actually, directly, exclusively and continuously used for livestock activity up to the present. According to the DAR, there were no longer cattle and livestock facilities within the subject lands.

Petitioners filed a Motion for Reconsideration (with Motion for Ocular Inspection)^[29] dated January 15, 2013; a Supplemental Motion for Reconsideration^[30] dated January 28, 2013; and, a Second Supplemental Motion for Reconsideration^[31] dated March 18, 2013 of the DAR's Order. In these motions, the petitioners, alleged, among others that their right to due process were violated when the alleged ocular inspection on the subject lands was conducted by Ucag without prior notice to them, thereby depriving them the right to refute such findings. They averred that Ucag never entered the gated premises of the subject lands and that, had there been an inspection, he must have conducted the same only from outside the premises. Petitioners likewise averred that it is unlikely that Ucag could have spotted the livestock therein considering that the same were lying on a sloping plain, combined with the tall napier grasses.

Thereafter, petitioners filed an Appeal Memorandum^[32] with the Office of the President (OP) and averred, among others, as follows: (1) DAR Secretary De Los Reyes erred in reversing RD Evangelista's Order dated December 22, 2009 after it already attained finality; (2) the subject lands were presently and exclusively utilized for livestock raising; (3) only a number of livestock (older and milking) were transferred from the subject lands to the Novaliches facility at the instance of the PCC-DA, while the younger livestock remained in the subject lands; and, (4) SAMANACA has no legal standing to assail RD Evangelista's Order dated December 22, 2009 since they were never in possession of the subject lands and they were not tenants, farmers and tillers thereon.

On April 29, 2015, the OP rendered its Decision,^[33] and ruled that petitioners' subject lands were exempted from the coverage of CARP. The dispositive portion of its decision reads, thus:

WHEREFORE, premises considered, the Order dated 7 December 2012 of the Secretary of the Department of Agrarian Reform is hereby REVERSED AND SET ASIDE. The petition for exclusion from CARP coverage with respect to the 76.3964 hectares of lands, located in Brgy. Macabud, Montalban, Rizal, owned by the Heirs of Ramon Arce, is hereby GRANTED.

SO ORDERED.^[34]

The DAR filed a Petition for Review^[35] with the CA and prayed for the reversal of the OP's April 29, 2015 Decision. The CA granted the same in its assailed Decision^[36] dated August 5, 2016. The CA held, among others, that petitioners

failed to refute or deny that since 1998, there were no longer cattle in the subject lands and that the same were no longer used as grazing lands.

Their Motion for Reconsideration,^[37] having been denied in the CA's November 28, 2016 Resolution,^[38] petitioners filed this instant petition, anchored on the following grounds:

A.

THE ASSAILED DECISION AND RESOLUTION WERE NOT IN ACCORD WITH LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT CONSIDERING THAT THE COURT OF APPEALS ERRONEOUSLY UPHELD THE FINDINGS OF FACTS OF THE DAR SECRETARY WHICH WERE BASED ON PROCEEDINGS UNDERTAKEN IN BLATANT VIOLATION OF PETITIONERS' BASIC RIGHTS TO ADMINISTRATIVE DUE PROCESS AND DESPITE PETITIONERS' PRESENTATION OF SUBSTANTIAL EVIDENCE SHOWING PRESENCE OF LIVESTOCK IN THE SUBJECT PROPERTIES.

B.

THE ASSAILED DECISION AND RESOLUTION WERE NOT IN ACCORD WITH LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT CONSIDERING THAT THE COURT OF APPEALS ERRONEOUSLY RULED THAT THE SUBJECT PROPERTIES ARE NO LONGER ACTUALLY, DIRECTLY, AND EXCLUSIVELY USED FOR LIVESTOCK RAISING PURPOSES DESPITE THE FACT THAT THE SUBJECT PROPERTIES ARE UTILIZED TO SUSTAIN THE FEEDLOT OPERATIONS/INTENSIVE SYSTEM OF FARMING OF PETITIONERS.

C.

THE ASSAILED DECISION AND RESOLUTION WERE NOT MADE IN ACCORD WITH LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT CONSIDERING THAT THE COURT OF APPEALS HAD ERRONEOUSLY GIVEN DUE COURSE TO RESPONDENT'S PETITION FOR REVIEW DESPITE THE NON-OBSERVANCE OF THE RULE ON EXHAUSTION OF ADMINISTRATIVE REMEDIES.^[39]

Meanwhile, on March 20, 2018, SAMANACA filed an *Ex-parte* Motion for Leave (for Intervention and for Admission of Comment),^[40] arguing that its members have already been identified as qualified beneficiaries of the subject lands and hence, has the right to participate and air its side of the controversy.

This Court's Ruling

The petition is granted.

This case falls under the recognized exceptions to the rule that this Court is not a trier of facts –