

THIRD DIVISION

[G.R. No. 176549, January 20, 2016]

**DEPARTMENT OF AGRARIAN REFORM, QUEZON CITY & PABLO
MENDOZA, PETITIONERS, VS. ROMEO C. CARRIEDO,
RESPONDENT.**

D E C I S I O N

JARDELEZA, J.:

This is a Petition for Review on *Certiorari*^[1] assailing the Court of Appeals Decision dated October 5, 2006^[2] and Resolution dated January 10, 2007^[3] in CA-G.R. SP No. 88935. The Decision and Resolution reversed the Order dated February 22, 2005^[4] issued by the Department of Agrarian Reform-Central Office (DAR-CO) in Administrative Case No. A-9999-03-CV-008-03 which directed that a 5.0001 hectare piece of agricultural land (land) be placed under the Comprehensive Agrarian Reform Program pursuant to Republic Act (RA) No. 6657 or the Comprehensive Agrarian Reform Law.

The Facts

The land originally formed part of the agricultural land covered by Transfer Certificate of Title (TCT) No. 17680,^[5] which in turn, formed part of the total of 73.3157 hectares of agricultural land owned by Roman De Jesus (Roman).^[6]

On May 23, 1972, petitioner Pablo Mendoza (Mendoza) became the tenant of the land by virtue of a *Contra to King Pamamuisan*^[7] executed between him and Roman. Pursuant to the Contrato, Mendoza has been paying twenty-five (25) piculs of sugar every crop year as lease rental to Roman, it was later changed to Two Thousand Pesos (P2,000.00) per crop year, the land being no longer devoted to sugarcane.^[8]

On November 7, 1979, Roman died leaving the entire 73.3157 hectares to his surviving wife Alberta Constaes (Alberta), and their two sons Mario De Jesus (Mario) and Antonio De Jesus (Antonio).^[9] On August 23, 1984, Antonio executed a Deed of Extrajudicial Succession with Waiver of Right^[10] which made Alberta and Mario co-owners in equal proportion of the agricultural land left by Roman.^[11]

On June 26, 1986, Mario sold^[12] approximately 70.4788 hectares to respondent Romeo C. Carriedo (Carriedo), covered by the following titles and tax declarations, to wit:

1. TCT No. 35055

2. (Tax Declaration) TD No. 48354

3. TCT No. 17681

4. TCT No. 56897

5. TCT No. 17680

The area sold to Carriedo included the land tenanted by Mendoza (forming part of the area covered by TCT No. 17680). Mendoza alleged that the sale took place without his knowledge and consent.

In June of 1990, Carriedo sold all of these landholdings to the Peoples' Livelihood Foundation, Inc. (PLFI) represented by its president, Bernabe Buscayno.^[13] All the lands, except that covered by TCT No. 17680, were subjected to Voluntary Land Transfer/Direct Payment Scheme and were awarded to agrarian reform beneficiaries in 1997.^[14]

The parties to this case were involved in three cases concerning the land, to wit:

The Ejectment Case

(DARAB Case No. 163-T-90 CA-G.R. SP No. 44521 G.R. No. 143416)

On October 1, 1990, Carriedo filed a Complaint for Ejectment and Collection of Unpaid Rentals against Mendoza before the Provincial Agrarian Reform Adjudication Board (PARAD) of Tarlac docketed as DARAB Case No. 163-T-90. He subsequently filed an Amended Complaint on October 30, 1990.^[15]

In a Decision dated June 4, 1992,^[16] the PARAD ruled that Mendoza had knowledge of the sale, hence, he could not deny the fact nor assail the validity of the conveyance. Mendoza violated Section 2 of Presidential Decree (PD) No. 816,^[17] Section 50 of RA No. 1199^[18] and Section 36 of RA No. 3844,^[19] and thus, the PARAD declared the leasehold contract terminated, and ordered Mendoza to vacate the premises.^[20]

Mendoza filed an appeal with the Department of Agrarian Reform Adjudication Board (DARAB). In a Decision dated February 8, 1996,^[21] the DARAB affirmed the PARAD Decision *in toto*. The DARAB ruled that ownership of the land belongs to Carriedo. That the deed of sale was unregistered did not affect Carriedo's title to the land. By virtue of his ownership, Carriedo was subrogated to the rights and obligation of the former landowner, Roman.^[22]

Mendoza then filed a Petition for Review with the Court of Appeals (CA). The case was docketed as CA-G.R. SP No. 44521. In a Decision dated September 7, 1998,^[23] the CA affirmed the DARAB decision *in toto*. The CA ruled that Mendoza's reliance on Section 6 of RA No. 6657 as ground to nullify the sale between De Jesus and Carriedo was misplaced, the section being limited to retention limits. It reiterated that registration was not a condition for the validity of the contract of sale between the parties.^[24] Mendoza's Motions for Reconsideration and New Trial were

subsequently denied.^[25]

Mendoza thus filed a Petition for Review on *Certiorari* with this Court, docketed as G.R. No. 143416. In a Resolution dated August 9, 2000,^[26] this Court denied the petition for failure to comply with the requirements under Rule 45 of the Rules of Court. An Entry of judgment was issued on October 25, 2000.^[27] In effect, the Decision of the CA was affirmed, and the following issues were settled with finality:

- 1) Carriedo is the absolute owner of the five (5) hectare land;
- 2) Mendoza had knowledge of the sale between Carriedo and Mario De Jesus, hence he is bound by the sale; and
- 3) Due to his failure and refusal to pay the lease rentals, the tenancy relationship between Carriedo and Mendoza had been terminated.

Meanwhile, on October 5, 1999, the landholding covered by TCT No. 17680 with an area of 12.1065 hectares was divided into sub-lots. 7.1065 hectares was transferred to Bernabe Buscayno *et al.* through a Deed of Transfer^[28] under PD No. 27.^[29] Eventually, TCT No. 17680 was partially cancelled, and in lieu thereof, emancipation patents (EPs) were issued to Bernabe, Rod and Juanito, all surnamed Buscayno. These lots were identified as Lots C, D and E covered by TCT Nos. 44384 to 44386 issued on September 10, 1999.^[30] Lots A and B, consisting of approximately 5.0001 hectares and which is the land being occupied by Mendoza, were registered in the name of Carriedo and covered by TCT No. 344281^[31] and TCT No. 344282.^[32]

The Redemption Case
(DARAB III-T-1476-97 CA-G.R. SP No. 88936)

On July 21, 1997, Mendoza filed a Petition for Redemption^[33] with the PARAD. In an Order dated January 15, 2001,^[34] the PARAD dismissed his petition on the grounds of this pendentia and lack of the required certification against forum-shopping. It dismissed the petition so that the pending appeal of DARAB Case No. 163-T-90 (the ejectment case discussed above) with the CA can run its full course, since its outcome partakes of a prejudicial question determinative of the tenability of Mendoza's right to redeem the land under tenancy.^[35]

Mendoza appealed to the DARAB which reversed the PARAD Order in a Decision dated November 12, 2003.^[36] The DARAB granted Mendoza redemption rights over the land. It ruled that at the time Carriedo filed his complaint for ejectment on October 1, 1990, he was no longer the owner of the land, having sold the land to PLFI in June of 1990. Hence, the cause of action pertains to PLFI and not to him.^[37] It also ruled that Mendoza was not notified of the sale of the land to Carriedo and of the latter's subsequent sale of it to PLFI. The absence of the mandatory requirement of notice did not stop the running of the 180 day-period within which Mendoza could exercise his right of redemption.^[38] Carriedo's Motion for Reconsideration was subsequently denied.^[39]

Carriedo filed a Petition for Review with the CA. In a Decision dated December 29,

2006,^[40] the CA reversed the DARAB Decision. It ruled that Carriedo's ownership of the land had been conclusively established and even affirmed by this Court. Mendoza was not able to substantiate his claim that Carriedo was no longer the owner of the land at the time the latter filed his complaint for ejectment. It held that the DARAB erred when it ruled that Mendoza was not guilty of forum-shopping.^[41] Mendoza did not appeal the decision of the CA.

The Coverage Case

(ADM Case No. A-9999-03-CV-008-03 | CA-G.R. SP No. 88935)

On February 26, 2002, Mendoza, his daughter Corazon Mendoza (Corazon) and Orlando Gomez (Orlando) filed a Petition for Coverage^[42] of the land under RA No. 6657. They claimed that they had been in physical and material possession of the land as tenants since 1956, and made the land productive.^[43] They prayed (1) that an order be issued placing the land under Comprehensive Agrarian Reform Program (CARP); and (2) that the DAR, the Provincial Agrarian Reform Officer (PARO) and the Municipal Agrarian Reform Officer (MARO) of Tarlac City be ordered to proceed with the acquisition and distribution of the land in their favor.^[44] The petition was granted by the Regional Director (RD) in an Order dated October 2, 2002,^[45] the dispositive portion of which reads:

WHEREFORE, foregoing premises considered, the petition for coverage under CARP filed by Pablo Mendoza, et al[.], is given due course. Accordingly, the MARO and PARO are hereby directed to place within the ambit of RA 6657 the landholding registered in the name of Romeo Carriedo covered and embraced by TCT Nos. 334281 and 334282, with an aggregate area of 45,000 and 5,001 square meters, respectively, and to distribute the same to qualified farmer-beneficiaries.

SO ORDERED.^[46]

On October 23, 2002, Carriedo filed a Protest with Motion to Reconsider the Order dated October 2, 2002 and to Lift Coverage^[47] on the ground that he was denied his constitutional right to due process. He alleged that he was not notified of the filing of the Petition for Coverage, and became aware of the same only upon receipt of the challenged Order.

On October 24, 2002, Carriedo received a copy of a Notice of Coverage dated October 21, 2002^[48] from MARO Maximo E. Santiago informing him that the land had been placed under the coverage of the CARP.^[49] On December 16, 2002, the RD denied Carriedo's protest in an Order dated December 5, 2002.^[50] Carriedo filed an appeal to the DAR-CO.

In an Order dated February 22, 2005,^[51] the DAR-CO, through Secretary Rene C. Villa, affirmed the Order of the RD granting coverage. The DAR-CO ruled that Carriedo was no longer allowed to retain the land due to his violation of the provisions of RA No. 6657. His act of disposing his agricultural landholdings was tantamount to the exercise of his retention right, or an act amounting to a valid waiver of such right in accordance with applicable laws and jurisprudence.^[52]

However, it did not rule whether Mendoza was qualified to be a farmer-beneficiary of the land. The dispositive portion of the Order reads:

WHEREFORE, premises considered, the instant appeal is hereby **DISMISSED** for lack of merit. Consequently, the Order dated 2 October 2002 of the Regional Director of DAR III, is hereby **AFFIRMED**.

SO ORDERED.^[53]

Carriedo filed a Petition for Review^[54] with the CA assailing the DAR-CO Order. The appeal was docketed as CA-G.R. SP No. 88935. In a Decision dated October 5, 2006, the CA reversed the DAR-CO, and declared the land as Carriedo's retained area. The CA ruled that the right of retention is a constitutionally-guaranteed right, subject to certain qualifications specified by the legislature.^[55] It serves to mitigate the effects of compulsory land acquisition by balancing the rights of the landowner and the tenant by implementing the doctrine that social justice was not meant to perpetrate an injustice against the landowner.^[56] It held that Carriedo did not commit any of the acts which would constitute waiver of his retention rights found under Section 6 of DAR Administrative Order No. 02, S.2003.^[57] The dispositive portion of the Decision reads:

WHEREFORE, premises considered and pursuant to applicable law and jurisprudence on the matter, the present Petition is hereby **GRANTED**. Accordingly, the assailed Order of the Department of Agrarian Reform-Central Office, Elliptical Road, Diliman, Quezon City (dated February 22, 2005) is hereby **REVERSED** and **SET ASIDE** and a new one entered—**DECLARING** the subject landholding as the Petitioner's retained area. No pronouncements as to costs.

SO ORDERED.^[58]

Hence, this petition.

Petitioners maintain that the CA committed a reversible error in declaring the land as Carriedo's retained area.^[59]

They claim that Paragraph 4, Section 6 of RA No. 6657 prohibits any sale, disposition, lease, management contract or transfer of possession of private lands upon effectivity of the law.^[60] Thus, Regional Director Renato Herrera correctly observed that Carriedo's act of disposing his agricultural property would be tantamount to his exercise of retention under the law. By violating the law, Carriedo could no longer retain what was left of his property. "To rule otherwise would be a roundabout way of rewarding a landowner who has violated the explicit provisions of the Comprehensive Agrarian Reform Law."^[61]

They also assert that Carriedo waived his right to retain for failure or neglect for an unreasonable length of time to do that which he may have done earlier by exercising due diligence, warranting a presumption that he abandoned his right or declined to assert it.^[62] Petitioners claim that Carriedo has not filed an Application for Retention over the subject land over a considerable passage of time since the same was acquired for distribution to qualified farmer beneficiaries.^[63]