

## SECOND DIVISION

[ G.R. No. 182332, February 23, 2011 ]

### MILESTONE FARMS, INC., PETITIONER, VS. OFFICE OF THE PRESIDENT, RESPONDENT.

#### D E C I S I O N

**NACHURA, J.:**

Before this Court is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Civil Procedure, seeking the reversal of the Court of Appeals (CA) Amended Decision<sup>[2]</sup> dated October 4, 2006 and its Resolution<sup>[3]</sup> dated March 27, 2008.

#### *The Facts*

Petitioner Milestone Farms, Inc. (petitioner) was incorporated with the Securities and Exchange Commission on January 8, 1960.<sup>[4]</sup> Among its pertinent secondary purposes are: (1) to engage in the raising of cattle, pigs, and other livestock; to acquire lands by purchase or lease, which may be needed for this purpose; and to sell and otherwise dispose of said cattle, pigs, and other livestock and their produce when advisable and beneficial to the corporation; (2) to breed, raise, and sell poultry; to purchase or acquire and sell, or otherwise dispose of the supplies, stocks, equipment, accessories, appurtenances, products, and by-products of said business; and (3) to import cattle, pigs, and other livestock, and animal food necessary for the raising of said cattle, pigs, and other livestock as may be authorized by law.<sup>[5]</sup>

On June 10, 1988, a new agrarian reform law, Republic Act (R.A.) No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL), took effect, which included the raising of livestock, poultry, and swine in its coverage. However, on December 4, 1990, this Court, sitting *en banc*, ruled in *Luz Farms v. Secretary of the Department of Agrarian Reform*<sup>[6]</sup> that agricultural lands devoted to livestock, poultry, and/or swine raising are excluded from the Comprehensive Agrarian Reform Program (CARP).

Thus, in May 1993, petitioner applied for the exemption/exclusion of its 316.0422-hectare property, covered by Transfer Certificate of Title Nos. (T-410434) M-15750, (T-486101) M-7307, (T-486102) M-7308, (T-274129) M-15751, (T-486103) M-7309, (T-486104) M-7310, (T-332694) M-15755, (T-486105) M-7311, (T-486106) M-7312, M-8791, (T-486107) M-7313, (T-486108) M-7314, M-8796, (T-486109) M-7315, (T-486110) M-9508, and M-6013, and located in Pinugay, Baras, Rizal, from the coverage of the CARL, pursuant to the aforementioned ruling of this Court in *Luz Farms*.

Meanwhile, on December 27, 1993, the Department of Agrarian Reform (DAR)

issued Administrative Order No. 9, Series of 1993 (DAR A.O. No. 9), setting forth rules and regulations to govern the exclusion of agricultural lands used for livestock, poultry, and swine raising from CARP coverage. Thus, on January 10, 1994, petitioner re-documented its application pursuant to DAR A.O. No. 9.<sup>[7]</sup>

Acting on the said application, the DAR's Land Use Conversion and Exemption Committee (LUCEC) of Region IV conducted an ocular inspection on petitioner's property and arrived at the following findings:

[T]he actual land utilization for livestock, swine and poultry is 258.8422 hectares; the area which served as infrastructure is 42.0000 hectares; ten (10) hectares are planted to corn and the remaining five (5) hectares are devoted to fish culture; that the livestock population are 371 heads of cow, 20 heads of horses, 5,678 heads of swine and 788 heads of cocks; that the area being applied for exclusion is far below the required or ideal area which is 563 hectares for the total livestock population; that the approximate area not directly used for livestock purposes with an area of 15 hectares, more or less, is likewise far below the allowable 10% variance; and, though not directly used for livestock purposes, the ten (10) hectares planted to sweet corn and the five (5) hectares devoted to fishpond could be considered supportive to livestock production.

The LUCEC, thus, recommended the exemption of petitioner's 316.0422-hectare property from the coverage of CARP. Adopting the LUCEC's findings and recommendation, DAR Regional Director Percival Dalugdug (Director Dalugdug) issued an Order dated June 27, 1994, exempting petitioner's 316.0422-hectare property from CARP.<sup>[8]</sup>

The Southern Pinugay Farmers Multi-Purpose Cooperative, Inc. (Pinugay Farmers), represented by Timiano Balajadia, Sr. (Balajadia), moved for the reconsideration of the said Order, but the same was denied by Director Dalugdug in his Order dated November 24, 1994.<sup>[9]</sup> Subsequently, the Pinugay Farmers filed a letter-appeal with the DAR Secretary.

Correlatively, on June 4, 1994, petitioner filed a complaint for Forcible Entry against Balajadia and company before the Municipal Circuit Trial Court (MCTC) of Teresa-Baras, Rizal, docketed as Civil Case No. 781-T.<sup>[10]</sup> The MCTC ruled in favor of petitioner, but the decision was later reversed by the Regional Trial Court, Branch 80, of Tanay, Rizal. Ultimately, the case reached the CA, which, in its Decision<sup>[11]</sup> dated October 8, 1999, reinstated the MCTC's ruling, ordering Balajadia and all defendants therein to vacate portions of the property covered by TCT Nos. M-6013, M-8796, and M-8791. In its Resolution<sup>[12]</sup> dated July 31, 2000, the CA held that the defendants therein failed to timely file a motion for reconsideration, given the fact that their counsel of record received its October 8, 1999 Decision; hence, the same became final and executory.

In the meantime, R.A. No. 6657 was amended by R.A. No. 7881,<sup>[13]</sup> which was approved on February 20, 1995. Private agricultural lands devoted to livestock, poultry, and swine raising were excluded from the coverage of the CARL. On October

22, 1996, the fact-finding team formed by the DAR Undersecretary for Field Operations and Support Services conducted an actual headcount of the livestock population on the property. The headcount showed that there were 448 heads of cattle and more than 5,000 heads of swine.

### ***The DAR Secretary's Ruling***

On January 21, 1997, then DAR Secretary Ernesto D. Garilao (Secretary Garilao) issued an Order exempting from CARP only 240.9776 hectares of the 316.0422 hectares previously exempted by Director Dalugdug, and declaring 75.0646 hectares of the property to be covered by CARP.<sup>[14]</sup>

Secretary Garilao opined that, for private agricultural lands to be excluded from CARP, they must already be devoted to livestock, poultry, and swine raising as of June 15, 1988, when the CARL took effect. He found that the Certificates of Ownership of Large Cattle submitted by petitioner showed that only 86 heads of cattle were registered in the name of petitioner's president, Misael Vera, Jr., prior to June 15, 1988; 133 were subsequently bought in 1990, while 204 were registered from 1992 to 1995. Secretary Garilao gave more weight to the certificates rather than to the headcount because "the same explicitly provide for the number of cattle owned by petitioner as of June 15, 1988."

Applying the animal-land ratio (1 hectare for grazing for every head of cattle/carabao/horse) and the infrastructure-animal ratio (1.7815 hectares for 21 heads of cattle/carabao/horse, and 0.5126 hectare for 21 heads of hogs) under DAR A.O. No. 9, Secretary Garilao exempted 240.9776 hectares of the property, as follows:

1. 86 hectares for the 86 heads of cattle existing as of 15 June 1988;
2. 8 hectares for infrastructure following the ratio of 1.7815 hectares for every 21 heads of cattle;
3. 8 hectares for the 8 horses;
4. 0.3809 square meters of infrastructure for the 8 horses; [and]
5. 138.5967 hectares for the 5,678 heads of swine.<sup>[15]</sup>

Petitioner filed a Motion for Reconsideration,<sup>[16]</sup> submitting therewith copies of Certificates of Transfer of Large Cattle and additional Certificates of Ownership of Large Cattle issued to petitioner prior to June 15, 1988, as additional proof that it had met the required animal-land ratio. Petitioner also submitted a copy of a Disbursement Voucher dated December 17, 1986, showing the purchase of 100 heads of cattle by the Bureau of Animal Industry from petitioner, as further proof that it had been actively operating a livestock farm even before June 15, 1988. However, in his Order dated April 15, 1997, Secretary Garilao denied petitioner's Motion for Reconsideration.<sup>[17]</sup>

Aggrieved, petitioner filed its Memorandum on Appeal<sup>[18]</sup> before the Office of the President (OP).

### ***The OP's Ruling***

On February 4, 2000, the OP rendered a decision<sup>[19]</sup> reinstating Director Dalugdug's Order dated June 27, 1994 and declared the entire 316.0422-hectare property exempt from the coverage of CARP.

However, on separate motions for reconsideration of the aforesaid decision filed by farmer-groups Samahang Anak-Pawis ng Lagundi (SAPLAG) and Pinugay Farmers, and the Bureau of Agrarian Legal Assistance of DAR, the OP issued a resolution<sup>[20]</sup> dated September 16, 2002, setting aside its previous decision. The dispositive portion of the OP resolution reads:

WHEREFORE, the Decision subject of the instant separate motions for reconsideration is hereby SET ASIDE and a new one entered REINSTATING the Order dated 21 January 1997 of then DAR Secretary Ernesto D. Garilao, as reiterated in another Order of 15 April 1997, without prejudice to the outcome of the continuing review and verification proceedings that DAR, thru the appropriate Municipal Agrarian Reform Officer, may undertake pursuant to Rule III (D) of DAR Administrative Order No. 09, series of 1993.

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

The OP held that, when it comes to proof of ownership, the reference is the Certificate of Ownership of Large Cattle. Certificates of cattle ownership, which are readily available - being issued by the appropriate government office - ought to match the number of heads of cattle counted as existing during the actual headcount. The presence of large cattle on the land, without sufficient proof of ownership thereof, only proves such presence.

Taking note of Secretary Garilao's observations, the OP also held that, before an ocular investigation is conducted on the property, the landowners are notified in advance; hence, mere reliance on the physical headcount is dangerous because there is a possibility that the landowners would increase the number of their cattle for headcount purposes only. The OP observed that there was a big variance between the actual headcount of 448 heads of cattle and only 86 certificates of ownership of large cattle.

Consequently, petitioner sought recourse from the CA.<sup>[22]</sup>

### ***The Proceedings Before the CA and Its Rulings***

On April 29, 2005, the CA found that, based on the documentary evidence presented, the property subject of the application for exclusion had more than satisfied the animal-land and infrastructure-animal ratios under DAR A.O. No. 9. The

CA also found that petitioner applied for exclusion long before the effectivity of DAR A.O. No. 9, thus, negating the claim that petitioner merely converted the property for livestock, poultry, and swine raising in order to exclude it from CARP coverage. Petitioner was held to have actually engaged in the said business on the property even before June 15, 1988. The CA disposed of the case in this wise:

**WHEREFORE**, the instant petition is hereby **GRANTED**. The assailed *Resolution* of the Office of the President dated September 16, 2002 is hereby **SET ASIDE**, and its *Decision* dated February 4, 2000 declaring the entire 316.0422 hectares exempt from the coverage of the Comprehensive Agrarian Reform Program is hereby **REINSTATED** without prejudice to the outcome of the continuing review and verification proceedings which the Department of Agrarian Reform, through the proper Municipal Agrarian Reform Officer, may undertake pursuant to Policy Statement (D) of DAR Administrative Order No. 9, Series of 1993.

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

Meanwhile, six months earlier, or on November 4, 2004, without the knowledge of the CA - as the parties did not inform the appellate court - then DAR Secretary Rene C. Villa (Secretary Villa) issued DAR Conversion Order No. CON-0410-0016<sup>[24]</sup> (Conversion Order), granting petitioner's application to convert portions of the 316.0422-hectare property from agricultural to residential and golf courses use. The portions converted - with a total area of 153.3049 hectares - were covered by TCT Nos. M-15755 (T-332694), M-15751 (T-274129), and M-15750 (T-410434). With this Conversion Order, the area of the property subject of the controversy was effectively reduced to 162.7373 hectares.

On the CA's decision of April 29, 2005, Motions for Reconsideration were filed by farmer-groups, namely: the farmers represented by Miguel Espinas<sup>[25]</sup> (Espinas group), the Pinugay Farmers,<sup>[26]</sup> and the SAPLAG.<sup>[27]</sup> The farmer-groups all claimed that the CA should have accorded respect to the factual findings of the OP. Moreover, the farmer-groups unanimously intimated that petitioner already converted and developed a portion of the property into a leisure-residential-commercial estate known as the Palo Alto Leisure and Sports Complex (Palo Alto).

Subsequently, in a Supplement to the Motion for Reconsideration on Newly Secured Evidence pursuant to DAR Administrative Order No. 9, Series of 1993<sup>[28]</sup> (Supplement) dated June 15, 2005, the Espinas group submitted the following as evidence:

- 1) Conversion Order<sup>[29]</sup> dated November 4, 2004, issued by Secretary Villa, converting portions of the property from agricultural to residential and golf courses use, with a total area of 153.3049 hectares; thus, the Espinas group prayed that the remaining 162.7373 hectares (subject property) be covered by the CARP;
- 2) Letter<sup>[30]</sup> dated June 7, 2005 of both incoming Municipal Agrarian Reform Officer (MARO) Bismark M. Elma (MARO Elma) and outgoing MARO Cesar C. Celi (MARO