

FIRST DIVISION

[G.R. No. 191545, November 22, 2010]

HEIRS OF AUGUSTO SALAS, JR., REPRESENTED BY TERESITA D. SALAS, PETITIONERS, VS. MARCIANO CABUNGCAL ET AL., RESPONDENTS.

R E S O L U T I O N

CORONA, C.J.:

Augusto Salas, Jr. is the registered owner of a parcel of agricultural land consisting of 148.4354 hectares covered by Transfer Certificate of Title (TCT) No. T-2807.^[1] The properties are located in Barangays Pusil, Inosluban, Maraway and Balintawak, Lipa City, Batangas.

In May 1987, Salas entered into an Owner-Contractor Agreement with Laperal Realty Corporation for the development, subdivision and sale of the property.^[2] On November 17, 1987, the Housing and Land Use Regulatory Board (HLURB) issued Development Permit No. 7-0370 allowing Salas and Laperal Realty to develop the property and subdivide it into a farmlot subdivision consisting of 80 saleable lots.^[3] The property was further subdivided into smaller lots for which new TCTs were issued in the name of Salas.^[4]

Despite the HLURB's issuance of the aforesaid development permit and, eventually, a license to sell covering Salas's property, portions of the same were still included in the Comprehensive Agrarian Reform Program (CARP) by the Department of Agrarian Reform (DAR).^[5] Petitioners protested and have continued to untiringly protest the said inclusion and filed applications for exemption with the DAR and its various agencies, to no avail. Petitioners' latest effort consisted of another application for exemption filed with DAR-Center for Land Use, Policy Planning and Implementation (DAR-CLUPPI) on April 27, 2001.^[6] The application covered a total area of 82.8494 hectares consisting of the following parcels of land:^[7]

TCT No.	Area (in hectares)	Lot Survey No.
67660	23.4967	A
67661	0.9366	B (Psd-04-0262541)
67662	31.7028	B (Psd-04-0262541)
67664	9.0587	B (Psd-04-0262541)
67665	0.2925	C (Psd-04-0262542)
68223	1.2159	J-7
68224	1.0757	J-8
68225	1.2158	J-9
68226	1.3356	J-10
68227	1.00	J-11

68228	1.00	J-12
68229	1.4802	J-13
68230	2.0443	J-14
68231	1.8060	J-15
68232	2.1663	J-16
68233	1.5454	J-17
68234	1.4769	J-18
Total Land Area	82.8494 hectares	

This latest application for exemption gave rise to the instant petition.

Petitioner's application for exemption has been ruled upon at least four times before the instant petition in this Court. On January 7, 2004, then DAR Secretary Roberto Pagdanganan granted the application for exemption of the 17 lots (Pagdanganan order). On reconsideration, however, DAR Secretary Nasser Pangandaman, who had by then replaced Pagdanganan, ruled in favor of respondents and set aside the Pagdanganan order (Pangandaman order).^[8] This order prompted petitioners to appeal to the Office of the President which set aside the Pangandaman order and reinstated the Pagdanganan order. However, this decision was reversed by the Court of Appeals on October 26, 2009.

In a resolution dated, September 15, 2010, this Court gave due course to this petition and dispensed with the filing of memoranda. The case has been calendared for deliberation.

On November 9, 2010, petitioners filed a motion for issuance of temporary restraining order (TRO) claiming that "the majority, if not all of the respondents, have clandestinely entered or are about to enter into transactions for the conveyance of the 17 parcels of land" subject of this petition.^[9] Petitioners also claim that respondents have already received sizeable amounts of money as part of the consideration for the said conveyance^[10]. The affidavit of one Gloria Linang Mantuano, who claims to be a tenant on petitioners' land, dated August 18, 2010 was submitted as proof of petitioners' allegations.

Petitioners contend that the consummation of transactions conveying the contested property will affect their right to defend their title to the property thereby causing grave and irreparable injury to them. While this Court does not agree with that claim, we still deem it to be more prudent to grant the requested TRO.

Petitioners have shown a *prima facie* right to the exemption that they claim. Former DAR Secretary Pagdanganan granted petitioners' application for exemption upon finding that the subject lots had already been converted to non-agricultural even prior to the effectivity of Republic Act No. 6657,^[11] due to the property's reclassification into farmland subdivision through the Land Use and Zoning Ordinance of Lipa City.^[12] This ordinance was approved by the HLURB in Resolution No.35, s. 1981,^[13] with a certification issued by HLURB Secretariat OIC Carolina Casaje that the Town Plan/Zoning Ordinance of Lipa City was approved by the National Coordinating Council for Town Planning, Housing and Zoning.^[14]