

THIRD DIVISION

[G.R. No. 171674, August 04, 2009]

**DEPARTMENT OF AGRARIAN REFORM (DAR), REPRESENTED BY
HON. NASSER C. PANGANDAMAN, IN HIS CAPACITY AS DAR OIC-
SECRETARY, PETITIONER, VS. CARMEN S. TONGSON,
RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before this Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court seeking to set aside the August 30, 2005 Decision^[2] and February 10, 2006 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 64176.

The facts of the case:

Respondent Carmen S. Tongson is the owner of four parcels of agricultural land located in Davao City. Three of these properties are located in Bayabas, Toril and the other located at Wangan, Calinan. Since the properties were primarily devoted to rice and corn under a system of lease-tenancy agreement, the same were brought under the coverage of Presidential Decree No. 27^[4] (PD 27), otherwise known as Tenants Emancipation Decree.^[5]

Sometime in 1988, the petitioner Department of Agrarian Reform offered to pay respondent P9,000.00 per hectare for her properties in Bayabas, Toril. Respondent, however, did not act on the offer as she was then leaving for the United States for her husband's medical treatment.^[6]

In 1989, upon her return to Davao, respondent was surprised to learn that, except for the portions devoted to orchards and planted with coconuts, all her properties in Wangan, Calinan and in Bayabas, Toril were taken over by petitioner.^[7]

Respondent alleged that petitioner summarily took her properties without any notice and had fixed the acquisition cost for the same at P1,500.00 per hectare for those located at Bayabas, Toril and P800.00 per hectare for the one located at Wangan, Calinan. Lastly, respondent alleged that petitioner subsequently issued Emancipation Patents to the farmer-beneficiaries.^[8]

Petitioner denied the allegations and averred that the properties were placed under the coverage of the agrarian reform program; hence, not summarily taken. Likewise, petitioner claimed that respondent was notified of the proceedings when they made the initial offer to her. Lastly, petitioner claimed that the acquisition cost was arrived at based on PD 27 in relation to Executive Order No. 228^[9] (EO 228), and that the subsequent issuance of Emancipation Patents was part of the

implementation of the program.^[10]

On October 25, 1993, respondent filed a Petition^[11] for the determination of just compensation before the Special Agrarian Court (SAC), Branch 15, of the Regional Trial Court of Davao City. The same was docketed as Civil Case No. 22,408-93.

During the trial, the SAC formed a Board of Commissioners to appraise the value of the properties. Thereafter, the commissioners using the market-date approach submitted their Report.^[12] Taking into consideration the value of the neighboring properties based on sale offerings and sale transactions, the Commissioners fixed the Bayabas properties at P75,000.00 per hectare and the Wangan property at P90,000.00 per hectare.^[13]

On March 17, 1999, after due deliberation and on the basis of the Commissioner's Report, the SAC rendered a Decision^[14] the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered ordering the respondent [herein petitioner] to pay the petitioner [herein respondent] the following sums:

1. Twenty-five thousand pesos per hectare for the thirty hectares in Bayabas, Toril the respondent got and distributed to beneficiaries, plus legal interest to compute from June 1, 1989 until fully paid.
2. Forty thousand pesos per hectare for the twenty hectares in Wangan, Calinan that the respondent got and distributed to beneficiaries, plus legal interest to compute from June 1, 1989 until fully paid.

SO ORDERED.^[15]

Petitioner then appealed to the CA *via* Rule 41 of the Rules of Court arguing in the main that the SAC erred in not applying the provisions of PD 27 and EO 228 in determining the value of the properties in dispute.^[16]

On August 30, 2005, the CA rendered a Decision, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the appeal is hereby DISMISSED subject to modification regarding the commissioners' fees, the assailed decision is hereby AFFIRMED.

SO ORDERED.^[17]

The CA ruled that Republic Act No. 6657^[18] (RA 6657), or the Comprehensive Agrarian Reform Law of 1988, was applicable in the determination of just

compensation. It ruled that RA 6657 made all laws pertaining to the agrarian reform program to have suppletory application only.^[19] Furthermore, the CA held that RA 6657 brought under its coverage all agricultural lands, including those where the process of agrarian reform coverage was started under PD 27 but was not completed under the decree.^[20]

Petitioner filed a Motion for Reconsideration,^[21] which was denied by the CA in the Resolution^[22] dated February 10, 2006.

Hence, herein appeal, with petitioner raising a lone assignment of error, to wit:

THE TRIAL COURT ERRED WHEN IT CONSIDERED FACTORS NOT THEN EXISTING AT THE TIME OF ITS TAKING, THUS, UNDULY AND TREMENDOUSLY INCREASED THE VALUATION AND, RESULTANTLY, THE AMOUNT, AS FIXED BELOW, WAS EXORBITANT, AN OVERPRICE, WHEN CONSIDERED IN THE LIGHT OF THE FACTS AND CIRCUMSTANCES THEN OCCURING ON OCTOBER 21, 1972.^[23]

The petition is bereft of merit.

Petitioner is adamant that for purposes of computation of just compensation the same should have been based on PD 27 in relation to EO 228.

The pertinent portions of PD 27 read:

x x x x

For the purpose of determining the cost of the land to be transferred to the tenant-farmer pursuant to this Decree, **the value of the land shall be equivalent to two and one half (2-1/2) times the average harvest of three normal crop years immediately preceding the promulgation of this Decree.**

The total cost of the land, including interest at the rate of six (6) per centum per annum, shall be paid by the tenant in fifteen (15) years of fifteen (15) equal annual amortizations. (Emphasis supplied)

Implementing the formula under PD 27, EO 228 states:

x x x x

SECTION 2. Henceforth, the valuation of rice and corn lands covered by P.D. No. 27 shall be based on the average gross production determined by the *Barangay* Committee on Land Production in accordance with Department Memorandum Circular No. 26, series of 1973 and related issuances and regulation of the Department of Agrarian Reform. **The**

average gross production per hectare shall be multiplied by two and a half (2.5), the product of which shall be multiplied by Thirty-Five Pesos (P35.00), the government support price for one cavan of 50 kilos of *palay* on October 21, 1972, or Thirty-One Pesos (P31.00), the government support price for one cavan of 50 kilos of corn on October 21, 1972, and the amount arrived at shall be the value of the rice and corn land, as the case may be, for the purpose of determining its cost to the farmer and compensation to the landowner.

On the other hand, respondent contends that RA 6657 should be the basis for the computation of just compensation. Section 17 of which reads:

Sec. 17. Determination of Just Compensation. - **In determining just compensation, the cost of acquisition of the land, the current value of the like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered.** The social and economic benefits contributed by the farmers and the farm workers and by the Government to the property as well as the non-payment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.^[24]

Clearly, PD 27 and RA 6657 provide different factors for the computation of just compensation. The former uses average crop harvest as a consideration, whereas, the latter uses the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors as factors for consideration in determining just compensation.

In the case at bar, it is undisputed by the parties that the lands were acquired under PD 27. Moreover, it is also undisputed that just compensation has not yet been settled prior to the passage of RA 6657. Thus, the issue to be determined is what law shall govern in the determination of just compensation.

The issue, once the subject of a number of cases, has finally been settled by this Court in recent years. It has been ruled that, if just compensation was not settled prior to the passage of RA 6657, it should be computed in accordance with the said law, although the property was acquired under PD 27.^[25]

In *Landbank of the Philippines v. Carolina B. Vda. de Abello, et al.*,^[26] this Court ruled:

Under the factual circumstances of the case, the agrarian reform process is still incomplete as the just compensation to be paid respondents has yet to be settled. **Considering the passage RA 6657 before the completion of this process, the just compensation should be**