

## THIRD DIVISION

[ G.R. No. 168394, October 06, 2008 ]

**AGRARIAN REFORM BENEFICIARIES ASSOCIATION (ARBA),  
REPRESENTED BY JOSEPHINE B. OMICTIN, PETITIONER, VS.  
LORETO G. NICOLAS AND OLIMPIO CRUZ, RESPONDENTS.**

### DECISION

**REYES, R.T., J.:**

THE DUTY of the court to protect the weak and the underprivileged should not be carried out to such an extent as to deny justice to the landowner whenever truth and justice happen to be on his side.<sup>[1]</sup>

This is a petition for review on *certiorari* of the Decision<sup>[2]</sup> of the Court of Appeals (CA) reinstating the decision of the Department of Agrarian Reform Adjudication Board (DARAB), Tagum City, Davao del Norte. The DARAB declared the land granted to petitioner, Agrarian Reform Beneficiaries Association (ARBA), exempt from the coverage of the Comprehensive Agrarian Reform Program (CARP). It ordered, *inter alia*, the cancellation of the Certificate of Land Ownership Award (CLOA) given to ARBA and reinstated the titles under the names of respondents.

### The Facts

The Philippine Banking Corporation (PhilBanking) was the registered owner of two parcels of land<sup>[3]</sup> located in *Barangay* Mintal, Davao City.<sup>[4]</sup>

On September 7, 1989, the Department of Agrarian Reform (DAR) issued a notice of coverage to PhilBanking. The DAR declared that subject parcels of land fall within the coverage of the Comprehensive Agrarian Reform Law (CARL) or Republic Act (RA) No. 6657.<sup>[5]</sup> PhilBanking immediately filed its protest.<sup>[6]</sup>

Despite Philbanking's objections, the DAR caused the cancellation of the titles of the subject parcels of land. Ownership was transferred to the Republic of the Philippines. This was followed by the distribution of said land to the farmer-beneficiaries belonging to ARBA by virtue of a CLOA, more particularly described as Transfer Certificate of Title No. CL-143.<sup>[7]</sup>

On March 24, 1994, PhilBanking executed a deed of assignment in favor of respondents, Loreto G. Nicolas and Olimpio R. Cruz. As assignees and successors-in-interest, respondents continued PhilBanking's protest over DAR's takeover of their lands.

However, unlike PhilBanking, respondents filed their complaint<sup>[8]</sup> before the local DARAB in Tagum City, Davao del Norte. PhilBanking instituted before the Regional

Trial Court (RTC) a complaint for reinstatement of title and recovery of possession. In their complaint with the DARAB, respondents prayed for the cancellation of the CLOA and reinstatement of titles previously registered under the name of PhilBanking.

### **DARAB (Tagum) Ruling**

On August 28, 1998, the DARAB (Tagum) rendered a decision in favor of respondents, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Declaring the land covered by Transfer Certificate of Title No. T-162078 situated at Davao City and covered under Compulsory Coverage of the Comprehensive Agrarian Reform Program by the public respondent (DAR) as exempted;
2. Declaring the coverage of the same under CARP as mandated pursuant to Republic Act No. 6657 void *ab initio*;
3. Ordering the Register of Deeds of Davao City to cancel the TCT No. CL-143 issued to private respondents Agrarian Reform Beneficiaries Association (ARBA) and Farmers Association of Davao-KMPI, *et al.*, and reinstate the title in favor of the petitioners;
4. Ordering the ARBA and Farmers Association of Davao-KMPI to choose and exercise the compensation package offered by the petitioners within five (5) days from the receipt of the decision thereof;
5. Ordering the persons acting for and in behalf of the individual ARBA and/or cooperative to voluntarily desist and vacate possession in the land mentioned under paragraph one, two and three (1, 2 and 3) hereof;
6. Counter-claim is hereby denied for lack of merit; and
7. No pronouncement as to cost.

SO ORDERED.<sup>[9]</sup>

The DARAB found the subject landholdings clearly beyond the coverage of CARL. According to the DARAB, the lands have already been re-classified as within the Urban/Urbanizing Zone (UR/URB)<sup>[10]</sup> as per City Ordinance No. 363, Series of 1982. The reclassification was subsequently approved by the City Zoning Administrator<sup>[11]</sup> and the HLURB Regional Office.<sup>[12]</sup> Later, the reclassification was reflected in the Official Comprehensive Zoning Map of Davao City.<sup>[13]</sup>

### **DARAB (Central Office) Ruling**

Aggrieved by the local DARAB ruling, petitioner appealed to the DARAB Central Office. Acting on the appeal, the DARAB, Central Office, overturned the decision of its local office, disposing, thus:

Under the prevailing circumstances, we uphold the validity of the questioned CLOA and subsequent registration thereof with the Registry of Deeds.

WHEREFORE, the decision appealed from is hereby REVERSED AND SET ASIDE.

SO ORDERED.<sup>[14]</sup>

The DARAB pointed out that the DAR followed proper procedures to effect compulsory land acquisition, from the issuance of a notice of coverage to the actual distribution of CLOAs. The DARAB noted that PhilBanking did not even pose any objection to the acquisition of the property for inclusion in the CARP; and that as PhilBanking's assignees, respondents could not argue that they were not accorded due process.

Respondents then filed a motion for reconsideration and a supplemental motion for reconsideration. Both were subsequently denied by the DARAB.<sup>[15]</sup>

Dissatisfied with the Central DARAB ruling, respondents elevated the matter to the CA.<sup>[16]</sup>

In their appeal, respondents essentially contended, among others, that the DARAB (Central Office) erred in ruling that the subject parcels of lands were within the coverage of RA No. 6657, more popularly known as the CARL.

### **CA Disposition**

On October 12, 2004, the CA granted the appeal. The *fallo* of the CA decision runs in this wise:

WHEREFORE, premises considered, the questioned Decision dated 24 September 2001 rendered by public respondent DARAB is hereby REVERSED and SET ASIDE and a new one entered:

1. Ordering the Register of Deeds of Davao City to cancel TCT No. CL-143 (CLOA No. 00044912);
2. Ordering the Register of Deeds of Davao City to reinstate Transfer Certificate of Title Nos. T-162077 and T-162078 in the name of PhilBanking;
3. Maintaining the private respondents members of the ARBA and Farmers Association of Davao-KMPI in their peaceful possession and cultivation over their respective landholdings in this case if they and/or predecessors-in-interest were already tenants over the same prior to June 15, 1988; and
4. Declaring the parcels of land in question as exempted from the coverage of CARL.

No pronouncements as to costs.

SO ORDERED.<sup>[17]</sup>

The CA reiterated that the subject parcels of lands have long been reclassified as being within an urban zone before the enactment of RA No. 6657.<sup>[18]</sup> Not being agricultural land, the subject lands are clearly not within the scope of the CARL.<sup>[19]</sup> It cited with approval the local DARAB ruling:

The subject parcels of land are not within the coverage of the Comprehensive Agrarian Reform Law (CARL), hence, their having been subjected to CARP are (*sic*) patently erroneous. The subject parcels of lands has (*sic*) already been re-classified within an Urban/Urbanizing Zone (UR/URB) as per approved Official Comprehensive Zoning Map of the City of Davao as embodied in the City Ordinance No. 363, series of 1982. As such, the subject parcels of land are considered "non-agricultural" in classification and may be utilized for residential, commercial and industrial purposes (*sic*) attached thereto as Annexes "C" and "D" are the Certifications issued by Davao City Zoning Administrator Hector L. Esguerra and Region XI Officer Rey T. Lopez of the Housing & Land Use Regulatory Board.

The fact that it has been re-classified as within the urban/urbanizing zone by the local government of the City of Davao as early as 1982 or prior to the effectivity of the CARL in June 1988 (*sic*) clearly shows that the area is beyond the coverage of RA 6657. Hence, the said property can no longer be subjected to compulsory acquisition. This position finds support in Opinion No. 44, Series of 1990 of the Honorable Justice Secretary Franklin W. Drilon, the salient portion of said Legal Opinion is hereby quoted, thus:

The authority of the Department of Agrarian Reform to reclassify or approve conversion of agricultural lands to non-agricultural uses may be exercised only from the date of effectivity of RA 6657 on June 15, 1988.

The authority of the DAR is limited only to all public and private agricultural lands and other lands of the public domain suitable for agriculture under Section 4 of RA 6657. Corollary, Section 3(c) of RA 6657 specifically defines agricultural land as that devoted to agricultural activity as defined in this act and not classified as mineral, residential, commercial, or industrial.<sup>[20]</sup>

In ruling against petitioners and in favor of respondents, the CA applied Department of Justice (DOJ) Opinion No. 44 and this Court's ruling in *Natalia Realty, Inc. v. Department of Agrarian Reform*.<sup>[21]</sup> In both, the correct meaning and appreciation of what an agricultural land is were clarified. *Natalia* also laid the doctrine that once land has been classified as non-agricultural, it becomes outside the coverage of CARL.<sup>[22]</sup>

### **Issues**

Petitioners have resorted to the present recourse and assign to the CA the following errors:

#### **I**

THE HONORABLE COURT OF APPEALS ERRED IN NOT DISMISSING FORTHWITH THE PRESENT CASE FOR LACK OF A CAUSE OF ACTION, THE RESPONDENTS HEREIN NOT HAVING SHOWN THAT THERE WAS A VALID AND LAWFUL TRANSFER OF SUBJECT REALTY TO THEM TO BE POSSESSED OF THE REQUISITE PERSONALITY TO SUE.

## II

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE NATALIA CASE APPLIES IN THE PRESENT CASE ON THE BASIS OF THE BARE ALLEGATION SANS EVIDENCE TO SHOW THAT THE TWO CASES ARE SIMILAR.

## III

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE SUBJECT PARCELS OF LAND AS EXEMPTED FROM THE COVERAGE OF CARL CONTRARY TO THE EVIDENCE AND THE FINDING OF FACTS OF THE DARAB BOARD THAT ARE MANDATED BY LAW AS "FINAL AND CONCLUSIVE" IF SUPPORTED BY SUBSTANTIAL EVIDENCE (RA 6657, SEC. 54, PAR. 2).

## IV

THE HONORABLE COURT OF APPEALS ERRED IN DISREGARDING THE MANDATE OF THE LAND REFORM LAW, RA 6657 TO ADMIT THE FINDINGS OF FACT OF DAR AS "FINAL AND CONCLUSIVE."<sup>[23]</sup>  
(Underscoring supplied)

### **Our Ruling**

Before We rule on the issues, there is a need to discuss the propriety of petitioner's appeal. As aptly indicated in its pleading, this is a petition for review under Rule 45 of the Rules of Court. However, a perusal of the errors ascribed by petitioner to the CA shows that they all pertain to allegations of abuse of discretion. In fact, petitioner clearly stated that "all three errors constitute abuse of discretion amounting to lack or in excess of jurisdiction."<sup>[24]</sup>

This Court has consistently elaborated on the difference between Rule 45 and 65 petitions. A petition for review on *certiorari* under Rule 45 is an ordinary appeal. It is a continuation of the case from the CA, Sandiganbayan, RTC, or other courts. The petition must only raise questions of law which must be distinctly set forth and discussed.

A petition for *certiorari* under Rule 65 is an original action. It seeks to correct errors of jurisdiction. An error of jurisdiction is one in which the act complained of was issued by the court, officer, or quasi-judicial body without or in excess of jurisdiction, or with grave abuse of discretion which is tantamount to lack of or in excess of jurisdiction. The purpose of the remedy of *certiorari* is to annul void proceedings; prevent unlawful and oppressive exercise of legal authority; and provide for a fair and orderly administration of justice.

Applying the foregoing, errors in the appreciation of evidence may only be reviewed by appeal and not by *certiorari* because they do not involve any jurisdictional ground. Likewise, errors of law do not involve jurisdiction and may only be corrected by ordinary appeal.