

THIRD DIVISION

[G.R. NO. 165073, June 30, 2006]

HEIRS OF JUAN GRIÑO, SR. REPRESENTED BY REMEDIOS C. GRIÑO, PETITIONERS, VS. DEPARTMENT OF AGRARIAN REFORM, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

On challenge via petition for certiorari are the October 17, 2003 Decision and the June 21, 2004 Resolution of the Court of Appeals in CA-GR SP No. 73368, "*Heirs of Juan Griño, Sr. represented by Remedios C. Griño v. Department of Agrarian Reform*."^[1]

Juan Griño, Sr. (Griño), now deceased, was the owner of a parcel of agricultural land, Lot 1505-B, covered by Transfer Certificate of Title (TCT) No. T-53350^[2] of the Register of Deeds of Iloilo containing an area of 9.35 hectares, located in Barangay Gua-an, Leganes, Iloilo.

Griño was also the owner of a 50-hectare parcel of land located in Barangay Tad-y, Sara, Iloilo which he, on February 8, 1972, mortgaged to the Development Bank of the Philippines (DBP) to secure the payment of a loan.

On October 21, 1972, then President Ferdinand E. Marcos issued Presidential Decree No. 27 (PD 27), "DECREEING THE EMANCIPATION OF TENANTS FROM THE BONDAGE OF THE SOIL TRANSFERRING TO THEM THE OWNERSHIP OF THE LAND THEY TILL AND PROVIDING THE INSTRUMENTS AND MECHANISM THEREFOR."

Griño's 9.35 hectare land was placed under the coverage of PD 27 on account of which Certificates of Land Transfer (CLTs) covering a portion thereof were issued in favor of his tenants Marianito Gulmatico, Ludovico Hubero, Rodolfo Hubero, Placida Catahay and Roberto Gula.

Griño later filed in the early 80's a letter-petition for the cancellation of the above-said CLTs, contending that they were issued to the tenants without giving him an opportunity to be heard; the land was the only riceland he had in the Municipality of Leganes; the area planted with *palay* was only a little over 6 hectares; the land had a very great sentimental value to him; and several of his children and grandchildren who had no suitable residential lots might need the land to build their homes.

In lieu of the land covered by the CLTs, Griño offered seven hectares for each of the tenants from his above-said 50-hectare land.^[3]

Griño, however, later ceded to the DBP his 50-hectare land via *dacion en pago* to settle his obligation to it.

On July 10, 1985, Griño died.^[4] He was survived by his wife and seven children. On June 22, 1988, his wife also passed away.^[5]

On June 15, 1988, Republic Act 6657 or the COMPREHENSIVE AGRARIAN REFORM LAW (CARL) took effect.

DAR Regional Director Antonio S. Maraya, acting on the petition of Griño for the cancellation of the CLTs, dismissed the same by Order^[6] of September 25, 1989 (Maraya Order), citing Letter of Instructions No. 474 (LOI 474),^[7] the pertinent portions of which Order read:

Based from the foregoing, Atty. Rex Tupas, then Legal Officer III, Agrarian Reform Team, Leganes, Iloilo recommended in his report dated April 5, 1982 the dismissal of herein petition of Juan Griño for lack of merit and the maintenance of the Certificates of Land Transfer issued in favor of the above enumerated tenants covering the subject farmholdings, **the petitioner, Juan Griño, being an owner of fifty hectares untenanted other agricultural lands which will not entitle him for exemption/retention pursuant to LOI 474, as implemented by MAR Memorandum Circular No. 11 dated April 21, 1978.** This recommendation was concurred in by the Regional Director, Department of Agrarian Reform, Region VI, Iloilo City.

WHEREFORE, premises considered, the instant petition filed by Juan Griño for the cancellation of the Certificates of Land Transfer issued in favor of his tenants covering certain parcels of land situated at Brgy. Gua-an, Leganes, Iloilo, is hereby DISMISSED for lack of merit, and accordingly, the Certificates of Land Transfer issued shall be maintained.

^[8] (Emphasis and underscoring supplied)

The Land Bank of the Philippines later advised Griño's heirs, herein petitioners, by letter^[9] of June 6, 1996, of the DAR's submission of Griño's 9.35 hectare land transfer claim for payment under PD 27, its approval on June 5, 1996, and the requirements for the proceeds of the claim to be released.

Petitioners later filed with the DAR Regional Office an application for retention^[10] dated March 14, 1997 of the 9.35 hectare land pursuant to Section 6 of the CARL which reads:

SECTION 6. *Retention Limits.* – Except as otherwise provided in this Act, no person may own or retain, directly or indirectly, any public or private agricultural land, the size of which shall vary according to factors governing a viable family-sized farm, such as commodity produced, terrain, infrastructure, and soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder, **but in no cases shall retention by the landowner exceed five (5) hectares. Three (3) hectares may be awarded to each child of the landowner, subject to the following qualifications: (1) that he is at least fifteen (15) years of age; and (2) that he is actually tilling the land or directly managing the farm: Provided, that landowners whose lands have**

been covered by Presidential Decree No. 27 shall be allowed to keep the area originally retained by them thereunder, Provided, further, That original homestead grantees or their direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead.

x x x x (Emphasis and underscoring supplied)

Petitioners sought the exemption of the 9.35 hectare land from the coverage of either PD 27 or the CARL, contending that Griño had seven children and if a landowner is entitled to five hectares as retention limit, the remaining land of Griño would not be enough for his children, the 50-hectare land of Griño having already been ceded to the DBP.^[11]

In the meantime or on June 5 and 25, 1997, Emancipation Patents were issued in favor of Griño's above-named tenants.^[12]

DAR Regional Director Dominador B. Andres subsequently dismissed petitioners' application for retention, by Order^[13] dated April 27, 1998, ratiocinating as follows:

x x x x

The reckoning date for the application of Operation Land Transfer is October 21, 1972, the date of effectivity of P.D. 27, which is the law applicable in this case, and not the date of effectivity of R.A. 6657 (June 15, 1988), which is applicable here only in suppletory manner. By operation of law, as of October 21, 1972, the subject landholdings were covered by Operation Land Transfer under Presidential Decree No. 27 in view of the fact that the landholdings, subject of this case are tenanted and Juan Griño, Sr. has other landholdings located at Sara, Iloilo with an area of 50.0000 hectares, more or less. The conveyance of the 50.0000hectares landholdings in favor of the Development Bank of the Philippines sometime in 1985 has **no legal effect** of exempting the tenantedlandholdings from Operation Land Transfer considering that theconveyance happened only in 1985, several years **after** the subjecting ofthe said properties under the coverage of Operation Land Transfer.

x x x x^[14] (Emphasis and underscoring supplied)

Petitioners moved to reconsider^[15] the April 27, 1998 Order of the DAR Regional Director but it was denied by Order^[16] of August 18, 1998.

Petitioners appealed to the DAR Secretary, arguing that the Regional Director erred in:

I. . . . NOT CANCELING RESPONDENTS' [CLTs] WHICH WERE NULL AND VOID FOR HAVING BEEN ISSUED WITHOUT DUE PROCESS OF LAW AND WITHOUT PAYMENT OF JUST COMPENSATION.

II. . . . HOLDING THAT GRIÑO DID NOT HAVE A RIGHT OF RETENTION/EXEMPTION OVER HIS TENANTED AGRICULTURAL

LAND (LOT 1505-B) BECAUSE HE OWNED 50 HECTARES OF UNTENANTED OTHER AGRICULTURAL LAND IN SARA WHEN PD NO. 27 TOOK EFFECT.

III. . . . HOLDING THAT THE REVERSION OF THE 50- HECTARE LAND IN SARA, ILOILO TO THE DBP IN PAYMENT OF GRIÑO'S MORTGAGE DEBT, WAS CIRCUMVENTION OF PD 27.

IV. . . . NOT ALLOWING GRIÑO AND (LATER) HIS HEIRS THE RIGHT TO CHOOSE TO RETAIN HIS 9-HECTARE-LOT 1505-B IN LEGANES, ILOILO, IN LIEU OF THE 50-HECTARE LAND IN SARA, ILOILO, AS PROVIDED IN SECTION 6 O[F] RA 6657 WHICH WAS ALREADY THE LAW WHEN THE APPEALED ORDERS WERE ISSUED.^[17]

By Order^[18] dated September 3, 2002, then DAR Secretary Hernani A. Braganza denied petitioners' appeal:

x x x x

The fact that the 50-hectare property was mortgaged to the DBP in 1972 is of no moment in relation to PD 27. The naked title of said property remained with Juan Griño, Sr. and he was still the owner thereof when PD 27 took effect.

However, we agree with herein applicants-appellants that the reversion of the 50-hectare property to the DBP by way of *dacion en pago* in 1985 was not done in circumvention of PD 27. Said property was untenanted coconut land, hence, beyond the coverage of PD 27. However, said transaction merely confirmed the fact that Juan Griño, Sr. was the owner of the 50-hectare property when PD 27 took effect on 21 October 1972.

Since Juan Griño, Sr. cannot retain any portion of his tenanted riceland in Leganes, Iloilo, herein applicants-appellants, who are his successors-in-interest, cannot also retain the same property under PD 27. Herein applicants-appellants merely succeeded to the rights of their predecessor-in-interest by virtue of the Law on Succession under the New Civil Code. It should be noted that under DAR AO 4 (1991), no retention rights are granted to the children of landowners.

Applicants-appellants next assert their right of retention and their right to choose the area to be retained as provided in Section 6 of RA 6657.

The contention is likewise without merit.

x x x

The . . . statement of the Supreme Court clearly indicates that a landowner who failed to exercise his retention right of land under PD 27 may do so under RA 6657 provided he is qualified to do so under the regime of PD 27. Stated differently, where a landowner is not entitled to retain land under PD 27, he cannot avail of the right of retention over the

same land under RA 6657.

In the case at hand, it is established that Juan Griño, Sr. was not entitled to exercise his retention right over subject property under PD 27. As such, he is also not entitled to exercise said right under RA 6657. If Juan Griño, Sr. had no retention rights under PD 27 and RA 6657, it follows that his heirs, who are his successors-in-interest, cannot also exercise the same right under PD 27 and RA 6657.

x x x x (Underscoring supplied)^[19]

Before the Court of Appeals to which petitioners elevated the case via petition for review, it raised the following arguments:

1. Griño had the right to retain subject land, because LOI 474 exempted from OLT landowners of ricelands who owned other agricultural lands exceeding 7 hectares if they did not derive sufficient income from the latter.
2. Petitioners had each inherited a 1.33 hectare share of the subject land as of 1985, which was already way below the retention limits of PD 27 and RA 6657.^[20]

By Decision^[21] dated October 17, 2003, the appellate court affirmed the September 3, 2002 Order of the DAR Secretary, the pertinent portions of which decision read:

x x x Juan Griño's disputed land came within the coverage of P.D. 27 because it is tenanted riceland. Because P.D. 27 initially lacked implementing rules and regulations, there were a lot of uncertainties at the start on how the transfer of ownership to tenant-framers would operate. As the above outline of the major post-P.D. 27 developments showed, the government started with the landed estates and worked its way down to seven hectares of tenanted rice and corn land by the time it came out with LOI 474. **What was certain at that point was that from the combined application of P.D. 27 and LOI 474, Juan Griño, Sr. had no right of retention because he owned 9 hectares of tenanted riceland and 50 hectares of coconut land.** Thus, his tenants were given – in 1981, during the lifetime of Juan Griño, Sr. – their Certificates of Land Transfers preparatory to the Emancipation Patents they would receive if they can perfect their payments of their portion of the covered riceland. Juan Griño, Sr. objected to the issuance of the CLTs soon after. This was the status of Juan Griño, Sr.'s retention rights when he died in 1985.

x x x x

While Juan Griño seasonably objected to the CLTs, the objection was simply a pending remedial action passed on to the heirs. **This remedial action lost its efficacy for the heirs when the DAR dismissed the petition on September 25, 1989 and their heirs failed to appeal the dismissal.** x x x