

SECOND DIVISION

[G.R. No. 145013, March 31, 2005]

**SPOUSES BERTO VILLORENTE & LERMA T. VILLORENTE, AND
SPOUSES CATALINO BAJETA & PASCUALA A. BAJETA,
PETITIONERS, VS. APLAYA LAIYA CORPORATION, RESPONDENT.**

DECISION

CALLEJO, SR., J.:

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court seeking the reversal of the Decision^[1] of the Court of Appeals (CA) dated September 15, 2000 in CA-G.R. SP No. 51531. The appellate court dismissed the petition for review^[2] which challenged the November 6, 1996 Conversion Order^[3] issued by then Department of Agrarian Reform (DAR) Secretary Ernesto D. Garilao, on the sole ground of untimeliness in the filing of the said petition.

The Antecedents

The Aplaya Laiya Corporation (ALC) is the owner of 22 parcels of agricultural land with an area of 151.38 hectares located at Barangay Laiya, Aplaya, San Juan, Batangas.

Portions of the property were tenanted, and some tenants had constructed their respective houses thereon. The ALC decided to develop the property into a tourist spot under the project name Aplaya Laiya Tourism Development Project. It then filed its application with the Regional Development Council of Region IV for the conversion of the property from agricultural to non-agricultural. After due consideration of the application, the council endorsed the conversion of the property as part of the site for the Batangas Tourism Development Area (BTDA) in Region IV to the Regional Land Use Council which, in turn, favorably endorsed the approval of the application to the National Land Use Council (NLUC). Finding merit in the application and that the requisite documents and requirements to facilitate conversion procedures for the BTDA site had been duly complied with, the NLUC approved a Resolution dated September 18, 1996 recommending the approval/confirmation of the application to the Secretary of Agrarian Reform.

After a review of the matter, DAR Secretary Ernesto D. Garilao approved the application on November 6, 1996 and issued a Conversion Order. The DAR Secretary also declared that his Order was without prejudice to the payment of disturbance compensation to the farmers who would be displaced by reason of the conversion of the property into Regional Agri- Industrial Centers and Tourism Development Area.

^[4]

Accordingly, pursuant to Administrative Order (A.O.) No. 12, Series of 1994,^[5] the afore-quoted Order was conspicuously posted in the Municipal Agrarian Reform

Office of San Juan, Batangas, from November 23, 1996 to January 28, 1997. Moreover, the Office of the Municipal Planning and Development Coordinator, Municipality of San Juan, Batangas issued a Certification^[6] of Publication dated January 29, 1997, stating that as required by Section XII of DAR A.O. No. 12, Series of 1994, the order had been published at the expense of the corporation, and attested to the fact of compliance with the requirement of posting. The Municipal Agrarian Reform Office of San Juan, Batangas, likewise certified that during the said period, it did not receive any objection pertaining to the approved land conversion.^[7]

Negotiations commenced in earnest between the ALC and the tenants/occupants on the latter's claim for disturbance compensation. Included therein were the Spouses Villorente and Catalino Bajeta. However, disagreements ensued as to the amounts to be offered by the ALC. On January 26, 1998, Rodolfo Javier, representing the heirs of Juan Javier, together with the tenants/claimants who were also members of the *Kooperatibang Sandigan ng Magsasakang Pilipino, Inc. (KSMPI)*, filed a motion for reconsideration^[8] of the November 6, 1996 Conversion Order of the DAR Secretary. Included therein were Melchor De Chavez, Catalino Bajeta (who had been a tenant on the property since 1941), Lerma Villorente (who had occupied a portion of the property with an area of 50 square meters more or less), and Artemio Mendoza. The tenants/claimants prayed that the questioned Conversion Order be set aside, and should not be enforced due to the non-observance of due process. They claimed that instead of being apprised of the application for conversion, the ALC gave notice thereof only after its confirmation and when the negotiations for the payment of disturbance compensation had already begun. Appended to the motion was a list of its members, which included Catalino Bajeta and Lerma Villorente.

Resolving that there was no compelling reason to rule otherwise, DAR Secretary Garilao issued the May 25, 1998 Order^[9] denying the aforesaid motion for lack of merit. The DAR, thereafter, considered the case closed.

Unfazed by the denial of its motion for reconsideration of the Conversion Order, the KSMPI interposed an appeal to the appellate court and filed a motion for extension of time to file a petition for review thereof. The appeal was docketed as CA-G.R. SP No. 48041. On July 17, 1998, the CA issued an Order denying the motion.^[10] Realizing that it was not a real party-in-interest, the KSMPI no longer appealed such denial of its motion. Hence, the appellate court's July 17, 1998 Order of dismissal became final and executory.

On December 18, 1998, the ALC instituted ejectment cases before the Municipal Trial Court of San Juan, Batangas against the herein petitioners, the Spouses Villorente and Spouses Bajeta, entitled and docketed as Civil Case No. 733 ("*ALC v. Spouses Berto and Lerma T. Villorente*") and Civil Case No. 734 ("*ALC v. Spouses Catalino and Pascuala Bajeta*").^[11]

The ALC alleged that as an aftermath of the Conversion Order, it offered to have the residential houses of the petitioners relocated to the ALC Village, with the allocated lots to be donated and titled in their favor and at no cost to them. However, the petitioners refused to vacate for no justifiable reason. Since they were not considered tenant-farmers in the properties covered by the Conversion Order, but squatters or occupants by mere tolerance, the ALC was impelled to file the

ejectment cases against the petitioners. The ALC further alleged that the Spouses Bajeta occupied a portion of its property outside of his tenancy area.^[12]

By way of riposte, the petitioners filed on March 31, 1999, a petition for review under Rule 43 of the Rules of Court with the CA, assailing the November 6, 1996 Conversion Order of the DAR Secretary. They claimed that they came to know of the Conversion Order only on March 1, 1999, upon their receipt of the summons and the complaints for ejectment against them.

The CA, however, rendered judgment on September 15, 2000 dismissing the petition, following its finding that the reglementary period for the filing of the petition had long expired. The CA ruled that the petitioners, who were also members of the KSMPI, had appealed the Conversion Order; the said appeal had been dismissed by it; and the KSMPI failed to appeal the dismissal. Being members of the KSMPI, the petitioners knew or should have known of the Conversion Order after its publication, as shown in the Certification of Publication dated January 29, 1997 issued by the Office of the Municipal Planning and Development Coordinator, Municipality of San Juan, Batangas, which publication was a notice to all concerned farmers-beneficiaries in the said municipality. The appellate court also declared that the petitioners even negotiated with the ALC for disturbance compensation after the issuance of the Conversion Order.

The petitioners filed the instant petition for review on certiorari for the reversal of the decision of the CA, citing as grounds the following errors:

- A. THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE CONVERSION ORDER OF NOVEMBER 6, 1996 IS ALREADY FINAL AND EXECUTORY AND THEREFORE, SAID PETITION OF THE PETITIONERS WAS FILED OUT OF TIME.
- B. EXECUTIVE ORDER NO. 124 IN CONJUNCTION WITH THE PROVISIONS OF SECTION 2.7 OF JOINT NEDA-DAR M.C. NO. 1, SERIES OF 1993 IS NULL AND VOID AS IT VIOLATES THE CONSTITUTIONAL MANDATE OF AGRARIAN REFORM UNDER THE 1987 CONSTITUTION AND THE LEGAL MANDATE UNDER REPUBLIC ACT 6657.
- C. ADJACENT TO AND PORTIONS OF THE SUBJECT PROPERTIES ARE ALREADY COVERED BY THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP). CONSEQUENTLY, THE SECRETARY OF AGRARIAN REFORM ACTED WITHOUT JURISDICTION IN NOT TAKING INTO ACCOUNT THE CARPABILITY OF THE SUBJECT PROPERTIES SIMILAR TO THOSE ALREADY COVERED BY CARP.
- D. THE CONVERSION ORDER IN QUESTION OF NOVEMBER 6, 1996 WAS ISSUED BY THE SECRETARY OF AGRARIAN REFORM IN VIOLATION OF THE DUE PROCESS AND WITHOUT REGARD TO THE SUBSTANTIVE RIGHT OF HEREIN PETITIONERS AS THE OCCUPANTS AND FARMERS-BENEFICIARIES OF CARP UNDER R.A. 6657, AND
- E. IN THE ALTERNATIVE, FOR FAILURE OF PRIVATE RESPONDENT APLAYA LAIYA CORPORATION TO COMMENCE THE DEVELOPMENT OF THE SUBJECT PROPERTIES IN SPITE [OF] THE CLEARING OF THE OCCUPANTS OF THE SUBSTANTIAL PORTIONS THEREOF, IN VIOLATION OF DAR A.O. NO. 01, S-93