

SECOND DIVISION

[G.R. NO. 152324, April 29, 2005]

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. HON.
PEPITO PLANTA, IN HIS CAPACITY AS PROVINCIAL
ADJUDICATOR OF THE DEPARTMENT OF AGRARIAN REFORM
ADJUDICATION BOARD (DARAB), AND FAUSTINO B. TOBIA,
RESPONDENTS.**

D E C I S I O N

CALLEJO, SR., J.:

Before the Court is the petition for review on certiorari filed by the Land Bank of the Philippines (LBP) which seeks the reversal of the Resolution^[1] dated September 19, 2001 of the Court of Appeals (CA) in CA-G.R. SP No. 66358. The said resolution dismissed outright the petition for certiorari filed therewith by petitioner LBP on the ground that it was the wrong remedy. Likewise sought to be reversed is the appellate court's Resolution dated February 12, 2002 denying petitioner LBP's motion for reconsideration.

The case arose from the following undisputed factual and procedural antecedents –

Respondent Faustino B. Tobia is the registered owner of a parcel of agricultural land covered by Transfer Certificate of Title No. T-24310 situated in Viga, Angadanan, Isabela, with an area of approximately 10.9044 hectares (subject property). He voluntarily offered to sell the subject property to the Government under the Comprehensive Agrarian Reform Law or Republic Act (R.A.) No. 6657. Pursuant to its mandate under Executive Order No. 405,^[2] petitioner LBP determined the valuation of the subject property at P107,962.83 per hectare or a total of P1,145,075.41. Accordingly, the Government, through the Department of Agrarian Reform (DAR) offered to buy the subject property at the purchase price of P1,145,075.41 in accordance with petitioner LBP's valuation. As he found the valuation too low, respondent Tobia rejected the offer.

In view of respondent Tobia's rejection of the offer, summary administrative proceedings to determine the just compensation for the subject property were conducted before respondent Pepito Planta, in his capacity as the Provincial Adjudicator of the Department of Agrarian Reform Adjudication Board (DARAB). The case was docketed as JCR-II-511-ISA 2000. After due proceedings, respondent Provincial Adjudicator rendered the Decision dated November 14, 2000 setting aside petitioner LBP's valuation of the subject property and fixing the same at P250,000.00^[3] per hectare.

Petitioner LBP sought reconsideration of the said decision but respondent Provincial Adjudicator, in the Order dated January 25, 2001, denied its motion.

Subsequently, respondent Tobia filed a Manifestation and Motion dated April 16, 2001 praying for the issuance of a writ of execution for failure of petitioner LBP to appeal the Decision dated November 14, 2000. Petitioner LBP opposed the same contending that the said decision has not attained finality in view of its seasonable filing of a petition for judicial determination of just compensation for the subject property. The said petition was filed with the Regional Trial Court (RTC) of Santiago City, Branch 21 thereof, sitting as a Special Agrarian Court (SAC). The case was docketed as Agrarian Case (A.C.) No. 0634 entitled "Land Bank of the Philippines vs. Faustino Tobia."

Despite the pendency of A.C. No. 0634, respondent Provincial Adjudicator issued the Writ of Execution dated June 27, 2001 which was addressed to the DARAB Sheriff directing him to implement the Decision dated November 14, 2000. Petitioner LBP received a copy of the writ of execution on July 6, 2001 and forthwith filed a motion for the reconsideration thereof. Respondent Provincial Adjudicator, in the Order dated August 8, 2001, denied the said motion.

According to the respondent Provincial Adjudicator, the right to elevate the matter of valuation to the SAC is reserved to the landowner alone, not the LBP. And since petitioner LBP is not entitled to file with the SAC the original action for the judicial determination of just compensation, respondent Provincial Adjudicator's Decision dated November 14, 2000 already became final and executory warranting the issuance of the writ of execution.

In the meantime, proceedings in A.C. No. 0634 before the SAC had reached the pre-trial stage.

On August 30, 2001, petitioner LBP filed with the CA a motion for extension of time to file a petition for certiorari to assail the Writ of Execution dated June 27, 2001 issued by respondent Provincial Adjudicator. In the said motion, petitioner LBP averred, among others, that it received the Order dated August 8, 2001 denying its motion for reconsideration on August 21, 2001. It further opined that under Section 54 of R.A. No. 6657, petitioner LBP has fifteen (15) days from receipt of the writ of execution to question such interlocutory order before the appellate court by filing a petition for certiorari and which period would expire on August 30, 2001. On the other hand, under Rule 46 of the Revised Rules of Court, in relation to Section 4, Rule 65 thereof, petitioner LBP has sixty (60) days from notice of the order sought to be assailed within which to file the petition for certiorari. If the latter were applied, petitioner LBP would have until October 14, 2001 within which to file its petition for certiorari.

In any case, to avoid any technicality in the reconciliation of the two periods and due to heavy workload of its counsel, petitioner LBP prayed that the CA grant it an additional period of forty-five (45) days from August 30, 2001 or until October 14, 2001 within which to file its petition for certiorari of the Writ of Execution dated June 27, 2001 issued by respondent Provincial Adjudicator.

Without acting directly on petitioner LBP's motion for extension of time to file its petition for certiorari by either granting or denying it, the CA denied due course to the petition for the reason that it was the wrong remedy. The assailed CA Resolution dated September 19, 2001 reads:

We RESOLVED to DENY DUE COURSE to this petition for certiorari for the reason that petitioner had availed of the wrong remedy.

As it is, petitioner is assailing the Writ of Execution dated June 27, 2001 issued by the Provincial Adjudicator for Region II of the Department of Agrarian Reform Adjudication Board in Case No. JCR-II-511-ISA-2000. Clearly, petitioner's recourse was to file a petition for review under Rule 43 of the 1997 Rules of Civil Procedure, not this instant petition for certiorari.

WHEREFORE, the petition is accordingly DISMISSED.

SO ORDERED.^[4]

Petitioner LBP filed its Motion for Reconsideration and Admission of Petition for Certiorari and Prohibition dated October 12, 2001 but the same was denied by the CA in the assailed Resolution dated February 12, 2002, thus:

Upon due consideration of petitioner's MOTION FOR RECONSIDERATION AND ADMISSION OF PETITION FOR CERTIORARI, as well as the COMMENT thereto of the private respondent, the Court finds no compelling reason to set aside its dismissal Resolution of September 19, 2001.

WHEREFORE, for lack of merit, the Motion for Reconsideration is DENIED and the attached Petition for Certiorari is DENIED ADMISSION.

SO ORDERED.^[5]

Hence, the recourse to this Court by petitioner LBP.

The sole issue in this case is whether the appellate court committed reversible error in dismissing outright the petition for certiorari filed by petitioner LBP.

The Court rules in the affirmative.

In dismissing outright the petition for certiorari, the CA reasoned that since it (petitioner LBP) was assailing the writ of execution issued by respondent Provincial Adjudicator, then its recourse was to file a petition for review under Rule 43^[6] of the Revised Rules of Court. Section 1 thereof provides:

Sec. 1. *Scope.* – This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the ... Department of Agrarian Reform under Republic Act No. 6657 ...

Contrary to the ratiocination of the appellate court, however, Rule 43 does not apply to an action to nullify a writ of execution because the same is not a "final order" within the contemplation of the said rule. As this Court fairly recently explained, "a writ of execution is not a final order or resolution, but is issued to carry out the mandate of the court in the enforcement of a final order or a judgment. It is a