503 Phil. 154

THIRD DIVISION

[G.R. No. 147146, July 29, 2005]

JOSE, JULIO AND FEDERICO, ALL SURNAMED JUNIO, PETITIONERS, VS. ERNESTO D. GARILAO, IN HIS CAPACITY AS SECRETARY OF AGRARIAN REFORM, RESPONDENT.

DECISION

PANGANIBAN, J.:

Lands already classified and identified as commercial, industrial or residential before June 15, 1988 — the date of effectivity of the Comprehensive Agrarian Reform Law (CARL) — are outside the coverage of this law. Therefore, they no longer need any conversion clearance from the Department of Agrarian Reform (DAR).

The Case

Before the Court is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to set aside the February 24, 2000 Decision[2] of the Court of Appeals (CA), in CA-GR SP No. 37217. The Decision denied petitioners' Petition for Certiorari[3] for its failure to show that the DAR had acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it issued its Exemption Order dated September 13, 1994. The Order, issued by then DAR Secretary Ernesto D. Garilao, had excluded Lot 835-B from the coverage of Republic Act 6657, otherwise known as the "Comprehensive Agrarian Reform Law (CARL)."

In its Resolution dated April 4, 2001, this Court (through the Second Division) immediately denied the Petition for failure of petitioners (1) to attach the duplicate original/certified true copy of the CA Resolution denying their Motion for Reconsideration of the CA Decision; and (2) to state the dates of their receipt and filing of a Motion for Reconsideration of that Decision.

In their Motion for Reconsideration[4] of the April 4, 2001 Resolution, petitioners alleged that they had received the assailed CA Decision on March 8, 2000 and filed their Motion for Reconsideration on March 22, 2000. They likewise submitted a duplicate original of the February 2, 2001 CA Resolution,[5] which had denied that Motion.

On January 22, 2002, petitioners filed a Manifestation.[6] It stated that in a clarificatory letter dated July 30, 1997,[7] Salvador S. Malibong, the deputized zoning administrator of Bacolod City, completely reversed the false Certification he had issued earlier. That Certification had been the basis of the DAR secretary's assailed Exemption Order.

On February 18, 2002, public respondent submitted its Comment on the Motion for

Reconsideration filed by petitioners. They in turn submitted their Reply to the Comment on June 14, 2002, in compliance with the Court's Resolution dated April 10, 2002. In its Resolution dated August 13, 2003, the Court (Second Division) resolved to grant their Motion for Reconsideration and to require the solicitor general to comment on the Petition within ten days from notice.

On October 9, 2003, the Office of the Solicitor General (OSG) submitted a Manifestation in Lieu of Comment. The OSG stated that its Comment on the Motion for Reconsideration filed by petitioners on February 18, 2002, had fully addressed the issues presented in their Petition for Review. On November 12, 2003, the Court resolved to give due course to the Petition and required the parties to submit their respective memoranda within thirty days from notice. Thereafter, the case was transferred to the First Division, and finally to the Third, which will now resolve the controversy.

The Facts

The CA summarized the antecedents of the case as follows:

> "In a Complaint dated February 12, 1994, filed with the [Department of Agrarian Reform Adjudication Board (DARAB)] by complainants (some of whom are herein petitioners), identified as 'Potential CARP Beneficiaries' per Certification of OIC [Municipal Agrarian Reform Officer (MARO)] dated November 21, 1991 x x x, it is prayed that a writ of preliminary injunction be issued against the registered owners of a certain parcel of agricultural land consisting of 71 hectares, more or less, known as Lot No. 835-B of Bacolod Cadastre, Brgy. Pahanocoy, Bacolod City, covered by Transfer Certificate of Title No. T-79622. Petitioners claim that x x x Sta. Lucia Realty Corporation and the Estate of Guillermo Villasor, represented by Irving Villasor, are bulldozing and leveling the subject property for the purpose of converting it into a residential subdivision; that as prospective CARP beneficiaries of the land in question, 'being former laborers, actual occupants and permanent residents of Barangay Pahanocoy,' their rights will be prejudiced by the illegal conversion of the land into a residential subdivision x x x.
>
> "On April 13, 1994, the DARAB OIC Executive Director forwarded the complaint to [Provincial Agrarian Reform Adjudicator (PARAD)], DAR, Region VI, Bacolod City for appropriate action x x x. Before any hearing could be conducted thereon, the Secretary of the Department of Agrarian Reform issued an Order dated September 13, 1994 in 'RE: PETITION FOR EXEMPTION FROM CARP COVERAGE PURSUANT TO DOJ OPINION NO. 44, SERIES OF 1990, IRVING P. VILLASOR, et al., Rep. by Atty. Angel Lobaton, Jr., Petitioners,' portions of which read as follows:
>
> > 'After a careful study of the facts of the case and the evidences presented by the parties, this Office finds the petition for exemption to be well founded. Under DOJ Opinion No. 44, Series of 1990, it provides that lands which has already been classified as mineral, forest, residential, commercial and industrial areas, prior to June 15, 1988 shall be excluded from CARP coverage. To this, it is an

> [i]nescapable conclusion that the subject property is exempted from CARP coverage considering the fact that the same was classified as residential as evidenced by the Resolution No. 5153-A, Series of 1976 of the City Council of Bacolod and as approved by the Human Settlements Regulatory Commission (now HLURB) in its Resolution dated September 24, 1980 as per Certification dated June 22, 1994 issued by the said Commission. The Certification of the National Irrigation Administration (NIA) dated June 9, 1994 stated that the subject land is not irrigable or is outside the service area of the irrigation system in the locality. In effect the said application had conformed to the requirements of the law on exemption. In accord thereto, the stand of Mr. Espanola that the portion, which he planted to trees and developed into mini-forest should be covered by CARP[,] is beyond recognition as the program does not apply to those which are already classified as residential lands prior to the effectivity of CARL on June 15, 1988. Instead, it is confined only to agricultural lands, which under R.A. 6657, Sec. 3(c), it defines agricultural lands as lands devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential or industrial land. With the above stated definition, it is beyond reason that the placing of the said portion under CARP coverage (1.5 hectare) is devoid of legal and factual basis.' "[8]

As earlier said, the Exemption Order was challenged before the appellate court *via* a Petition for *Certiorari*.

Ruling of the Court of Appeals

The Court of Appeals sustained the Exemption Order issued by public respondent. It found that prior to June 15, 1988, Lot 835-B had been reclassified from agricultural to residential land. It relied on the Court's pronouncement in *Natalia Realty v. Department of Agrarian Reform*[9] that lands were outside the coverage of the CARL if they had been converted to non-agricultural uses by government agencies, other than the DAR, prior to the effectivity of that law.

Further, the CA ruled that neither the CARL nor the Local Government Code of 1991 had nullified the reclassification of Lot 835-B. The appellate court noted that the land had been validly reclassified from agricultural to residential in 1976, prior to the effective date of both laws. It added that neither of those two laws could be applied retroactively, since they contained no provision authorizing their retroactivity.

Hence, this Petition.[10]

Issues

In their Memorandum, petitioners submit this lone issue for our consideration:

> "Whether the respondent DAR secretary had the inherent authority or power to exclude or exempt at will from the coverage of the

Comprehensive Agrarian Reform Program (CARP) the subject agricultural land which was already automatically covered by the CARL (RA 6657) upon its effectivity on June 15, 1988 without affording due process to herein petitioners and without the necessity of Congress having first to amend Section 4 of the said law authorizing such exemption or exclusion from CARP coverage."[11]

The Court's Ruling

The Petition is devoid of merit.

Sole Issue:
Coverage

Section 4 of RA 6657 sets forth the coverage of the CARL as follows:

> "SEC. 4. *Scope.*—The Comprehensive Agrarian Reform Law of 1988 shall cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture.
>
> "More specifically, the following lands are covered by the Comprehensive Agrarian Reform Program:
>
> x x x x x x x x x
>
> "(d) All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.

Section 3(c) of the CARL defines *agricultural land* as that which is "devoted to agricultural activity x x x and not classified as mineral, forest, residential, commercial or industrial land."

The meaning of *agricultural lands* covered by the CARL was explained further by the DAR in its Administrative Order No. 1, Series of 1990,[12] entitled "Revised Rules and Regulations Governing Conversion of Private Agricultural Land to Non-Agricultural Uses," issued pursuant to Section 49 of CARL, which we quote:

> "x x x. Agricultural land refers to those devoted to agricultural activity as defined in R.A. 6657 and not classified as mineral or forest by the Department of Environment and Natural Resources (DENR) and its predecessor agencies, ***and not classified in town plans and zoning ordinances as approved by the Housing and Land Use Regulatory Board (HLURB) and its preceding competent authorities prior to 15 June 1988 for residential, commercial or industrial use.***" (Emphasis supplied)

Prior to this Order, Department of Justice Opinion No. 44 dated March 16, 1990, which was addressed to then DAR Secretary Florencio Abad, recognized the fact that before the date of the law's effectivity on June 15, 1988, the reclassification or conversion of lands was not exclusively done by the DAR.[13] Rather, it was a "coordinated effort" of all concerned agencies; namely, the Department of Local

Governments and Community Development, the Human Settlements Commission and the DAR.[14] Then Justice Secretary Franklin M. Drilon explained the coordination in this wise:

> "x x x. Under R.A. No. 3844,[15] as amended by R.A. No. 6389,[16] an agricultural lessee may, by order of the court, be dispossessed of his landholding if after due hearing, it is shown that the 'landholding is declared by the [DAR] upon the recommendation of the National Planning Commission to be suited for residential, commercial, industrial or some other urban purposes.'[17]
>
> "Likewise, under various Presidential Decrees (P.D. Nos. 583, 815 and 946) which were issued to give teeth to the implementation of the agrarian reform program decreed in P.D. No. 27, the DAR was empowered to authorize conversions of tenanted agricultural lands, specifically those planted to rice and/or corn, to other agricultural or to non-agricultural uses, 'subject to studies on zoning of the Human Settlements Commissions' (HSC). This non-exclusive authority of the DAR under the aforesaid laws was, x x x recognized and reaffirmed by other concerned agencies, such as the Department of Local Government and Community Development (DLGCD) and the then Human Settlements Commission (HSC) in a Memorandum of Agreement executed by the DAR and these two agencies on May 13, 1977, which is an admission that with respect to land use planning and conversions, the authority is not exclusive to any particular agency but is a coordinated effort of all concerned agencies.
>
> "It is significant to mention that in 1978, the then Ministry of Human Settlements was granted authority to review and ratify land use plans and zoning ordinance of local governments and to approve development proposals which include land use conversions (*see* LOI No. 729 [1978]). This was followed by [E.O.] No. 648 (1981) which conferred upon the Human Settlements Regulatory Commission (the predecessors of the Housing and Land Use Regulatory Board [HLURB] the authority to promulgate zoning and other land use control standards and guidelines which shall govern land use plans and zoning ordinances of local governments, subdivision or estate development projects of both the public and private sector and urban renewal plans, programs and projects; as well as to review, evaluate and approve or disapprove comprehensive land use development plans and zoning components of civil works and infrastructure projects, of national, regional and local governments, subdivisions, condominiums or estate development projects including industrial estates."

Hence, the justice secretary opined that the authority of the DAR to approve conversions of agricultural lands to non-agricultural uses could be exercised only from the date of the law's effectivity on June 15, 1988.

Following the opinion of the Department of Justice (DOJ), the DAR issued Administrative Order (AO) No. 6, Series of 1994,[18] stating that conversion clearances were no longer needed for lands already classified as non-agricultural before the enactment of Republic Act 6657. Designed to "streamline the issuance of