

THIRD DIVISION

[G.R. No. 160420, July 28, 2005]

DANIEL ANINAO REPRESENTED BY SPOUSE CATALINA ANINAO, MAMERTO A. ALCARAZ, REPRESENTED BY SPOUSE HERMOGENA ALCARAZ, TEODULFO ALCARAZ, ROMULO C. ALIPUSTAIN, FELIX ANINAO REPRESENTED BY SPOUSE ANTONIO ANINAO, NESTOR S. ANINAO, PERFECTO B. ANINAO, LUIS ATIENZA SR., RICARDO BASCUGUIN, RESTITUTO A. BARAL REPRESENTED BY SPOUSE TERESA BARAL GLORIOSO, MAURO B. BARANGAS, ORECULO M. BARANGAS, ESMAEL E. BATOCABE, ANGELINA D. BUCALIG, PRIMO B. CABRAL, RUFINO C. CABRAL, LEONILA CARAIG, ANSELMO M. CARINGAL REPRESENTED BY SPOUSE SUSANA R. CARINGAL, DEMETRIO M. CARINGAL REPRESENTED BY SON GLICERIO D. CARINGAL, LORIANO CARINGAL, MARCIAL M. CARINGAL, PEDRO C. CARINGAL, SIMPLICIO M. CARINGAL, TEODORA R. CARINGAL REPRESENTED BY SON ANGELITO R. CARINGAL, PABLITO M. CASTELO, VICENTE CASTELO, FELIX M. CASTILLO, LORENZO R. CASTROJERES REPRESENTED BY SPOUSE EMILIA M CASTROJERES, ZALDY M. CASTROJERES, FELICISIMO CUELLA, ROMEO B. DACILLO, VIVENCIO M. DE GUZMAN, CELEDONIO C. DE JESUS, DIOMEDES A. DE JESUS, EFREN C. DE JESUS REPRESENTED BY SPOUSE OFELIA DE JESUS, ISIDRO C. DE JESUS, PRISCO C. DE JESUS REPRESENTED BY MONICA M. DE JESUS, ZOSIMO C. DE JESUS BENIGNO DE LA VEGA REPRESENTED BY SON MAURO G. DE LA VEGA MIGUEL DE LA VEGA, NICASIO H. DELGADO, ABELIO DELOS REYES, ENGRACIO DE LOS REYES, ERNESTO R. DE LOS REYES, FELICIANO DE LOS REYES REPRESENTED BY SON MANOLO DE LOS REYES, SOFRONIO DE SAGUN REPRESENTED BY SPOUSE FLORENCIA J. DE SAGUN, NONILON DIMAISIP, MAURICIO K. ELLAO, BRIGIDA ENDOZO, GABRIEL ETRON, NARCISO ETRON, RODRIGO B. FAMILIAR, GAUDENCIO HERNANDEZ, VIRGILIO HERNANDEZ, GREGORIO D. ILAO, LEONCIA ILAO, AGUSTIN A. LOPEZ, TOMAS R. MACATANGAY REPRESENTED BY SON WENCESLAO A. MACATANGAY, EUGENIO C. MALALUAN, QUINTIN DV. MALALUAN, ANACLETO DG. MANALO REPRESENTED BY SON ANTONIO MANALO, ANCISLO MANALO, ATANACIO MANALO, CRISPINIANO MANALO, CRISPULO D. MANALO, DELIA D. MANALO, DOROTEO MANALO ISIDRO M. MANALO, QUIRICO D. MANALO, ROGELIO MANALO, RESTITUTO MARQUEZ, CATALINO I. MARASIGAN REPRESENTED BY SPOUSE VICTORIA MARASIGAN, EUFEMIO MARASIGAN, FRANCISCO C. MARASIGAN, REPRESENTED BY SPOUSE ELISEA MARASIGAN, PABLO C. MARASIGAN, PEDRO C. MARASIGAN, RUPERTO C. MARASIGAN REPRESENTED BY SPOUSE SATURNINA MARASIGAN, EUSEBIA C. MARCO, SENANDO C. MARCO, APOLONIO Z. MENDOZA, LORETO

Z. MENDOZA REPRESENTED BY DAUGHTER NATALIA MENDOZA, MARIANO MENDOZA, PURIFICACION Z. MENDOZA, CASIANO MERCADO, FLORO D. MERCADO, GERMAN B. MERCADO, CASIANA NUEVO, MODESTA DV. PADILLA, CRISENCIA D. PANGANIBAN, LEONARDO A. PANGANIBAN REPRESENTED BY SPOUSE NELIA PANGANIBAN, RENATO D. PANGANIBAN, FELIXBERTO G. PASTORIN, ANASTACIA D. PEÑAFLOIDA, MAXIMO PEÑAFLOIDA, PORFIRIO B. RAMIREZ, DANTE DV. RASDAS, DANILO DV. RASDAS, VENANCIO DV. RASDAS REPRESENTED BY SPOUSE MARIA P. RASADZ, SOTERO H. RODRIGUEZ REPRESENTED BY SPOUSE PASTORA RODRIGUEZ, APOLONIO M. ROXAS, BERNABE M. ROXAS, ELISEO M. ROXAS, LEODEGARIO A. ROXAS, LEONILLO P. ROXAS, MIGUEL D. SACDALAN, DEMETRIO P. VILLARIN, AND, NEMESIO P. VILLARIN, PETITIONERS, VS. ASTURIAS CHEMICAL INDUSTRIES, INC., RESPONDENT.

D E C I S I O N

GARCIA, J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioners **Daniel Aninao, et al.**, urge the reversal and setting aside of the following issuances of the Court of Appeals in **CA G.R. SP No. 72201**, to wit:

- 1) **Resolution dated December 11, 2002,**^[1] dismissing herein petitioners' earlier petition for review of the decision and resolution dated January 4, 2002 and July 2, 2002, respectively, of the Office of the President; and
- 2) **Resolution dated October 15, 2003,**^[2] denying petitioners' motion for reconsideration.

The relevant facts are well laid out in the adverted January 4, 2002 decision^[3] of the Office of the President (OP, for short), viz.:

Subject of this case are several parcels of land with a total area of 507 hectares, more or less, which used to form part of a larger expanse consisting of 807 hectares situated in Brgys. Baha and Talibayog, Calatagan, Batangas, and formerly owned by Ceferino Ascue (Ascue).

Records show that on various dates in 1989 and 1990, emancipation patents (EPs) covering the disputed lands were issued to 323 agrarian reform beneficiaries pursuant to Operation Land Transfer (OLT) of Presidential Decree (PD) No. 27 and/or Executive Order (EO) No. 228, s. of 1987, entitled "*Declaring Full Ownership to Qualified Farmer Beneficiaries Covered by [PD] No. 27.*"

On August 1, 1989, the Municipal Agrarian Reform Officer (MARO) of Calatagan, Batangas sent a '*Final Notification*' letter dated July 28, 1989 to the heirs of Ascue relative to the payment of their land transfer claim (Records, p. 250).

On September 26, 1991, the DAR Region IV Office requested the Land

Bank of the Philippines (LBP) to open a trust account in favor of Ascue in an amount corresponding to the valuation of his agricultural property. Consequently, on different dates . . . the LBP issued separate documents each certifying that an amount certain, in cash and LBP bonds, has been set aside

Sometime in 1995, the heirs of Ascue, with the approval of the Regional Trial Court (RTC) at Balayan, Batangas handling the settlement his estate (sic), sold to Asturias Chemical Industries, Inc. ("Asturias") the 807 hectares of land referred to at the outset.

Years later, Asturias disturbed by what it viewed as initial activities undertaken by the DAR, . . . to place its remaining landholding under the comprehensive agrarian reform program (CARP), addressed a letter dated July 26, 1999 to the DAR Region IV office. There, Asturias made it known that its Calatagan landholding could no longer be considered for CARP coverage, it having *"already been declared as mineral land pursuant to a Mineral Production Sharing Agreement ('MPSA') between the government and Asturias"* (Record, pp. 163-181), and that *"an Environmental Compliance Certificate (ECC) [has already been] issued ... for the establishment of a cement plant within the area"* (Records, pp. 135-142).

On September 22, 1999, DAR Regional Director (RD) Renato Herrera issued, pursuant to DAR Memorandum Circular (MC) No. 34, s. of 1997, a certificate of exemption over the remaining 284.9323 hectares of land of Ascue, now owned by Asturias . The exemption order was based on the findings of the joint LVP-DAR-BARC team that *"only fifteen (15) hectares, more or less, are planted with crops such as upland rice, bananas, corn and coconut while the rest, with an area of 284.9323 hectares, are undeveloped, slopes of more than 18%, rocky, swampy, and/ or mangrove areas and therefore not suitable for agricultural purposes."* (p.100, Records).

On October 22, 1999, the Provincial Agrarian Reform Coordinating Committee (PARCCOM) issued Res. No. 02 urging the Registry of Deeds - Nasugbu, Batangas to cancel/consider null and void the land transaction between Ascue and Asturias if proven that it was concluded in violation of existing laws. This was followed by Res. No. 3, s. of 1999, urging agrarian reform associations to gather and submit concrete evidence on the alleged selling by agrarian reform beneficiaries (ARBs) and EP holders of their rights.

On January 6, 2000, the PARO of Batangas formed the Task Force for Baha, Calatagan, Batangas ("*TF Baha*",) and directed it to *inter alia* review related Claim Folders to ascertain if the standard operating procedures were followed in accordance with the policies and guidelines of PD 27 and CARL; to determine whether the property was planted to rice /corn as of 1972 and to verify the existence of tenancy relationship.

In a letter of January 10, 2000, Asturias formally protested the OLT coverage of portions of its Calatagan property and the threatened

cancellation of its titles The grounds cited for the protest fall under these headings: (1) "The Asturias Landholding is **NOT AND NEVER WAS a RICE and CORN farm**"; and (2) *The issuance of the alleged 818 EPs and the coverage of the Asturias property under PD # 27 is **ERRONEOUS, . . . AND WITHOUT DUE PROCESS.***" Appended to the letter-protest were the Batangas Census of Agriculture for years 1980 and 1991 showing that only 261 hectares of the land in Calatagan are planted to rice/corn.

On February 22, 2000, TF Baha submitted its report, with these relevant findings: (1) procedural lapses attended the OLT-coverage of the property in question; (2) significant portions of the OLT-covered area were planted to sugar cane; and (3) the landowner did not recognize tenancy relations with the ARBs.

To validate the findings of TF Baha, the DAR Region IV Office created a three (3)-man teams (the "Validating Team")

Thereafter, the Validating Team, on the premise that *"it cannot be established beyond reasonable doubt that the property is planted to palay or corn and tenanted", recommended that "the coverage of the property under OLT be nullified; and that the 818 EPs issued be cancelled to pave the way for the coverage [thereof] . . . under CARP."*

In its order of August 4, 2000, the dispositive portion of which is quoted at the outset, the DAR, thru Undersecretary for Field Operations Conrado S. Navarro, sustained the protest of Asturias and accordingly recalled/nullified the coverage of the property in question under OLT. Undersecretary Navarro predicated his ruling on the interplay of the following premises: (a) the landholding is not primarily devoted to rice/corn production; (b) the existence of tenancy relations has not been clearly established; and (c) the property had long ceased to be agricultural: it has become mineral land.

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Subsequently, two (2) groups, each claiming to be farmer-beneficiaries, separately moved for reconsideration. However, in a resolution of January 3, 2001, the DAR, after addressing three (3) main points raised by these groups, denied the separate motions. [Emphasis and italization in the original]

From the adverse order of the Department of Agrarian Reform (DAR) dated August 4, 2000,^[4] dispositively reading -

WHEREFORE, in view of the foregoing, the protest of Asturias Chemical Industries, Inc., against the OLT coverage involving 507.87 hectares in Brgy. Baha and Talibayog, Calatagan, Batangas is hereby GRANTED. However, the cancellation of the Emancipation Patents issued therein shall be the subject of separate proceedings before the DAR Adjudication Board pursuant to the DARAB New Rules of Procedure which may only be allowed upon due consideration of the right of the farmer-beneficiaries to

disturbance compensation in accordance with existing laws and regulations.

SO ORDERED,

and its Resolution of January 3, 2001,^[5] herein petitioners **Atanacio Aninao, et al.**, appealed to the OP. On January 04, 2001, OP, thru then Executive Secretary Alberto G. Romulo, rendered a decision,^[6] the decretal portion of which reads, as follows:

WHEREFORE, premises considered, the appealed order of DAR dated August 4, 2000 and its subsequent resolution dated January 3, 2001 are hereby **AFFIRMED**. The instant appeal is accordingly **DISMISSED**.

Petitioners subsequently moved for reconsideration, but their motion was denied per OP resolution of July 2, 2002.^[7]

In time, petitioners went to the Court of Appeals on a petition for review under Rule 43 of the 1997 Rules of Civil Procedure, whereat their recourse was docketed as **CA G.R. SP NO. 72201**.

In a resolution of September 5, 2002,^[8] the appellate court, noting that only petitioner **Agustin Lopez** signed the verification and certification of non-forum shopping, gave petitioners five (5) days from receipt thereof within which to present a Special Power of Attorney (SPA) to establish that **Agustin Lopez** was authorized to sign on behalf of the other petitioners. The same resolution carried a caveat that failure to comply with the SPA requirement "*will result in the dismissal of the petition*".

On September 16, 2002 and again on September 23, 2002, petitioners' counsel filed Manifestations, appending thereto two (2) separate SPAs for petitioner **Agustin Lopez**, the first allegedly signed by twelve (12) of his co- petitioners, or by their representatives, and the second, bearing the purported signatures of the other petitioners or their representatives, giving **Agustin Lopez** authority, in coordination with their counsel, to represent them in all matters connected with the case.

Eventually, in the herein first assailed **Resolution dated December 11, 2002**,^[9] the Court of Appeals dismissed petitioners' petition for review for "*being insufficient in form for failing to comply with the requirements under Section 3, Rule 46^[10] and Section 5, Rule 7 of the 1997 Rules of Civil Procedure.*" Petitioners then moved for reconsideration, but the appellate court denied the same in its subsequent **Resolution of October 15, 2003**.^[11]

Petitioners are now before this Court via the instant recourse, praying that their right to the parcels of land in question be adjudicated on the merits, it being their posture that the Court of Appeals erred in dismissing their petition in **CA G.R. SP No. 72201** on the ground of insufficiency or deficiency of the certification against forum shopping.

Apart from their core submission and arguments on forum shopping, petitioners tender the following determinative issues: