

## SECOND DIVISION

**[ G.R. No. 162890, November 22, 2005 ]**

**HEIRS OF JULIAN DELA CRUZ AND LEONORA TALARO, AS  
REPRESENTED BY MAXIMINO PRESENT: DELA CRUZ,  
PETITIONERS, VS. HEIRS OF ALBERTO CRUZ, AS REPRESENTED  
BY BENEDICTO U. PROMULGATED: CRUZ, <sup>[1]</sup> RESPONDENTS.**

### DECISION

**CALLEJO, SR., J.:**

Assailed in this petition for review on *certiorari* is the Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 69671, reversing the decision of the Department of Agrarian Reform and Adjudication Board (DARAB) in DARAB Case No. 6297, and ordering the dismissal of the petition of the Heirs of Julian dela Cruz in Reg. Case No. 5853 NNEi½96 for lack of jurisdiction.

The Republic of the Philippines acquired the De Leon Estate located in *Barangay* Casulucan, Talavera, Nueva Ecija for resale to deserving tenants and landless farmers, conformably with Commonwealth Act No. 539, as amended by Republic Act No. 1400. The property was under the administration of the Land Tenure Administration and later the Department of Agrarian Reform (DAR). Sometime in 1950, the DAR allocated a portion of the property in favor of Julian dela Cruz who was a tenant thereon. Such portion was identified as Lot No. 778 with an area of 3.362 hectares.<sup>[3]</sup>

Sometime in September 1960, the Republic of the Philippines sold Lot No. 778 to Julian dela Cruz by virtue of an Agreement to Sell. On September 27, 1960, the DAR issued Certificate of Land Transfer (CLT) No. AS-5323 in his favor as the qualified allocatee of the landholding.<sup>[4]</sup> Julian bound and obliged himself to pay the amortizations over the land in 30 annual installments. He cultivated the property and made payments to the government for a period of almost 20 years. He died in 1979 and was survived by his wife, Leonora Talaro-dela Cruz and their 10 children, including Mario and Maximino dela Cruz.<sup>[5]</sup>

For a time, Mario administered the landholding. Too old and sickly to cultivate the property by herself, Leonora dela Cruz executed a private document in May 1980 in which she declared that, with the consent of her children, she had sold the land in favor of Alberto Cruz, who henceforth had the right to possess and cultivate the property, and the obligation to continue the payment of the amortizations due over the land under the terms of the Agreement to Sell. Mario dela Cruz conformed to the deed.<sup>[6]</sup>

Alberto took possession of the landholding and cultivated it over a period of 10 years without any protest from Leonora and her children. He then filed an application to

purchase the property with the DAR. On August 8, 1990, Municipal Agrarian Reform Officer (MARO) Paterno Revollido prepared and signed an Investigation Report, recommending that the landholding be declared vacant and disposable to a qualified applicant. Declaring that there was no adverse claimant, the said report also recommended the approval of Alberto's application to purchase the property.<sup>[7]</sup> Appended to the report was the deed executed by Leonora in favor of Alberto.

On November 16, 1990, the Provincial Agrarian Reform Officer (PARO) issued an Order<sup>[8]</sup> approving the recommendation of the MARO. He directed the cancellation of Julian's CLT and declared that whatever rights Julian had over the landholding and payments made in favor of the government under the Agreement to Sell were forfeited. The dispositive portion of the order reads:

WHEREFORE, premises considered, an Order is hereby issued:

1. Canceling the Order of Award-CLT No. AS No. 5323 issued on 9-27-60, subject hereof, forfeiture whatever rights and payments made on the account of the lot in favor of the government, declaring Lot No. 778 pt Block No. xx Pls-Psd-Pcs N. 56903 of De Leon Estate, located at Casulucan, Talavera, N.E. vacant and disposable to the qualified applicant; and
2. Giving due course to the application of Mr. Alberto L. Cruz to purchase the said lot.

Let a Certificate of Land Ownership Award (CLOA), as the case may be, be issued to the herein new awardee-applicant after fifteen (15) days posting of this Order, if no protest has been filed by *affected parties*.

SO ORDERED.<sup>[9]</sup>

It appears on the dorsal portion of the order that only Julian (although already deceased by then) was given a copy of the order by registered mail.<sup>[10]</sup>

The PARO endorsed the Certificate of Land Ownership Award (CLOA) to the DAR Secretary, copy furnished the Regional Director. The DAR Bureau of Land Acquisition and Distribution reviewed and evaluated the records and recommended that the PARO's recommendation be affirmed.

On June 27, 1991, the DAR Secretary signed and issued CLOA No. 51750 over the property in favor of Alberto Cruz, and the certificate was registered with the Land Registration Authority (LRA). On August 15, 1991, the Register of Deeds issued Transfer Certificate of Title (TCT) No. CLOA- 0-3035 over the landholding in favor of Alberto Cruz.<sup>[11]</sup> The title contained an annotation prohibiting the beneficiary from selling or transferring the landholding within a period of 10 years from issuance, except to the Land Bank of the Philippines (LBP).

Sometime in early 1996, Maximino, one of the surviving children of Julian, discovered that the landholding had already been registered in the name of Alberto Cruz. On October 10, 1996, Leonora and her 10 children, with the assistance of the DAR Bureau of Legal Assistance, filed a petition with the Provincial Agrarian Reform Adjudicator (PARAD) for the nullification of the following: the order of the PARO,

CLOA No. 51750, and TCT No. CLOA-0-3035 issued in favor of Alberto Cruz. The petitioners declared, *inter alia*, that they were the surviving heirs of Julian dela Cruz; they had no knowledge of the sale by Leonora and Mario of their right as beneficiaries of the property; not being privies to the said sale, they were not bound by the private deed executed by Leonora; and such sale, as well as the issuance of the CLOA and the title over the property in favor of Alberto, was null and void, inasmuch as they violated agrarian reform laws and DAR Memorandum Circular No. 8, Series of 1980. They insisted that they were deprived of their rights as heirs of the beneficiary without due process of law.<sup>[12]</sup>

In his comment on the petition, Alberto Cruz alleged that he acquired the rights over the landholding from Leonora for P51,000.00 and had taken possession of the subject property. He further averred that he collected his share in the produce of the land with the consent of Leonora and her children. He had been paying the amortizations for the property to the government and in fact had already paid the purchase price of the property to the LBP in full.<sup>[13]</sup>

Meantime, on November 14, 1996, Alberto Cruz paid P8,054.07 to the DAR for the property and for which he was issued a receipt.<sup>[14]</sup> The PARO directed the Register of Deeds to cancel the annotation at the dorsal portion of the title covering the property.<sup>[15]</sup>

After due proceedings, the PARAD granted the petition in a Decision<sup>[16]</sup> dated July 9, 1997. It declared that the petitioners were the rightful allocatees of the property, and directed the MARO to cancel CLOA No. 51750 and TCT No. CLOA -0-3035 and issue another in favor of the petitioners. Alberto was ordered to vacate the property. The PARAD also directed the Register of Deeds of Nueva Ecija to cancel the said title and issue a new one over the landholding in favor of the petitioners. The dispositive portion of the decision reads:

IN THE LIGHT OF THE FOREGOING, judgment is hereby rendered as follows:

1. Declaring the petitioners to be the rightful allocatees of the subject land;
2. Ordering the respondent or anyone acting in his behalf to peacefully relinquish the possession of the land in question unto the herein petitioners;
3. Ordering the MARO of Talavera, Nueva Ecija and/or the PARO of North Nueva Ecija to cancel TCT No. CLOA-0-3035, (DAR CLOA No. 51750) previously issued to respondent Alberto Cruz and, in lieu thereof, to generate a new one in the name of herein petitioners, the heirs of Julian dela Cruz;
4. Directing the Register of Deeds of Nueva Ecija to cancel the above-mentioned CLOA and to register the new one to be generated in its stead.<sup>[17]</sup>

Alberto appealed the decision to the DARAB, which affirmed the ruling of the PARAD on June 19, 2000. The DARAB ruled that the rights of the petitioners as farmers-beneficiaries could not be transferred or waived except through hereditary succession or to the government, conformably with agrarian reform laws and that the private document Leonora executed may be assailed by her children by Julian, who were not privies thereto. The DARAB also ruled that in executing the private document, Leonora failed to comply with DAR Memorandum Circular No. 8, Series of 1980.<sup>[18]</sup>

The DARAB further declared that, even if the private document may be considered a waiver of Leonora's tenancy rights over the landholding, nevertheless, the CLOA and the title may still be canceled as such waiver is null and void. Citing *Torres v. Ventura*,<sup>[19]</sup> it held that the *pari delicto* doctrine is not applicable. The DARAB ruled that under DAR Administrative Order No. 2, Series of 1994, such sale, the CLOA and the Torrens title issued over the landholding in favor of Alberto may be cancelled by it.<sup>[20]</sup> Alberto filed a motion for reconsideration of the decision which the DARAB denied on February 11, 2002.<sup>[21]</sup>

Alberto then filed a petition for review in the CA, where he raised the following issues:

I

WHETHER OR NOT THE DAR ADJUDICATION BOARD HAS JURISDICTION OVER THE CASE;

II

WHETHER OR NOT THE CLOA AWARDED TO ALBERTO CRUZ MAY BE CANCELLED; and

III

WHETHER OR NOT THE SAID LOT MAY STILL BE AWARDED TO HEREIN PETITIONERS.

He alleged that the Dela Cruz heirs filed their petition with the PARAD only on October 17, 1996, long after the lapse of 16 years after Leonora executed the private document and conveyed the property to him on June 1, 1980. Conformably with Section 38 of Republic Act (R.A.) No. 3844, their petition with the PARAD had already prescribed. He also alleged that the said heirs should have filed an action for recovery of possession of the property within 10 years from 1980, conformably with Article 1134 of the New Civil Code. Moreover, their action in the PARAD was barred by estoppel because they failed to oppose the November 16, 1990 Order of the PARO, the issuance of the CLOA and the transfer of title in his favor. The petitioner maintained that the DARAB had no jurisdiction over the respondents' petition because the implementation of agrarian reform laws and rules and regulations was administrative in nature. He argued that the respondents should have sought relief from the DAR instead of filing their petition with the DARAB. The petitioner posits that the landholding subject matter of the petition is a landed estate acquired by the government under R.A. No. 1400; hence, Presidential Decree (P.D.) No. 27, which prohibits the sale of tenancy rights over the landholding, does not apply. Moreover, the ruling in *Torres v. Ventura* does not apply because the facts therein are different from those obtaining in the present case.

In their Comment on the petition, the Heirs of Julian dela Cruz maintained that Section 38 of R.A. No. 3844 and Section 1134 of R.A. No. 386 have no application in the case, considering that the issue is not one of tenancy because they had never entered into such a relationship with Alberto. They averred that they were not barred from filing their petition, either by laches or by prescription, because they discovered the private document their mother executed only in 1995. They claimed that they filed their petition with the PARAD instead of filing an administrative complaint with the Office of the DAR Secretary because time was of the essence and further delay in the resolution of the case would only cause great and irreparable injury to them. Besides, the Heirs of Julian dela Cruz averred, the MARO and the PARO violated DAR Administrative Order No. 3, Series of 1990, and deprived them of their right as beneficiaries over the property without due process of law. They maintained that under Rule 2, paragraph (f) of the DARAB New Rules and Procedures, the DARAB had jurisdiction over actions involving the issuance, correction or cancellation of the CLOA and Emancipation Patents registered with the LRA. They insisted that the ruling of this Court in *Torres v. Ventura* is decisive of the issues in the case.

In a Decision dated March 31, 2003, the CA granted the petition and ordered the dismissal of the petition of the Heirs of Julian dela Cruz in the PARAD for lack of jurisdiction. The CA declared that there was no tenancy relationship between respondent Alberto and the said heirs; hence, the DARAB had no jurisdiction over the petition. It declared that the issue before the DARAB was the rightful ownership over the landholding.

The said heirs moved for the reconsideration of the decision contending that the jurisdiction of the DARAB is not confined solely to agrarian disputes, but includes the cancellation of CLOAs registered with the LRA in favor of persons who are qualified beneficiaries under Section 22 of R.A. No. 6657. The Heirs of Julian dela Cruz reiterated the claim that the MARO and PARO violated their right to due process and the pertinent agrarian reform laws, rules and regulations. Further, they asserted that respondent Alberto was estopped from assailing the jurisdiction of the DARAB because he never raised the same in the PARAD and the DARAB. However, the appellate court resolved to deny the motion in its Resolution<sup>[22]</sup> dated March 18, 2004.

In the instant petition for review, the Heirs of Julian dela Cruz, as petitioners, maintain that under Rule VI, Section 1(f) of the 1994 DARAB Rules of Procedure, the DARAB has primary and exclusive jurisdiction over matters involving the issuance, correction and cancellation of CLOAs registered with the LRA even if there is no tenancy relationship between the parties. The petitioners point out that the issues before the DARAB do not only involve the ownership of the landholding, but also whether the PARO violated their substantive and procedural right to due process, as well as agrarian reform laws, rules and regulations in issuing the November 16, 1990 Order, and whether they are the rightful allocatees of the landholding under the ruling of this Court in *Torres v. Ventura*.

In their comment on the petition, the respondents aver that the petitioners' petition in the DARAB was one for recovery of ownership over the landholding, which is under the exclusive jurisdiction of the Regional Trial Court (RTC).

The petition is denied for lack of merit.