

[**G.R. No. 158228, March 23, 2004**]

**DEPARTMENT OF AGRARIAN REFORM, AS REPRESENTED BY ITS
SECRETARY, ROBERTO M. PAGDANGANAN, PETITIONER, VS.
DEPARTMENT OF EDUCATION, CULTURE AND SPORTS (DECS),
RESPONDENT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This petition for review on *certiorari* seeks to set aside the decision^[1] of the Court of Appeals dated October 29, 2002 in CA-G.R. SP No. 64378, which reversed the August 30, 2000 decision of the Secretary of Agrarian Reform, as well as the Resolution dated May 7, 2003, which denied petitioner's motion for reconsideration.

In controversy are Lot No. 2509 and Lot No. 817-D consisting of an aggregate area of 189.2462 hectares located at Hacienda Fe, Escalante, Negros Occidental and Brgy. Gen. Luna, Sagay, Negros Occidental, respectively. On October 21, 1921, these lands were donated by the late Esteban Jalandoni to respondent DECS (formerly Bureau of Education).^[2] Consequently, titles thereto were transferred in the name of respondent DECS under Transfer Certificate of Title No. 167175.^[3]

On July 15, 1985, respondent DECS leased the lands to Anglo Agricultural Corporation for 10 agricultural crop years, commencing from crop year 1984-1985 to crop year 1993-1994. The contract of lease was subsequently renewed for another 10 agricultural crop years, commencing from crop year 1995-1996 to crop year 2004-2005.^[4]

On June 10, 1993, Eugenio Alpar and several others, claiming to be permanent and regular farm workers of the subject lands, filed a petition for Compulsory Agrarian Reform Program (CARP) coverage with the Municipal Agrarian Reform Office (MARO) of Escalante.^[5]

After investigation, MARO Jacinto R. Piñosa, sent a "Notice of Coverage" to respondent DECS, stating that the subject lands are now covered by CARP and inviting its representatives for a conference with the farmer beneficiaries.^[6] Then, MARO Piñosa submitted his report to OIC-PARO Stephen M. Leonidas, who recommended to the DAR Regional Director the approval of the coverage of the landholdings.

On August 7, 1998, DAR Regional Director Dominador B. Andres approved the recommendation, the dispositive portion of which reads:

WHEREFORE, all the foregoing premises considered, the petition is granted. Order is hereby issued:

1. Placing under CARP coverage Lot 2509 with an area of 111.4791 hectares situated at Had. Fe, Escalante, Negros Occidental and Lot 817-D with an area

of 77.7671 hectares situated at Brgy. Gen. Luna, Sagay, Negros Occidental;

2. Affirming the notice of coverage sent by the DAR Provincial Office, Negros Occidental dated November 23, 1994;
3. Directing the Provincial Agrarian Reform Office of Negros Occidental and the Municipal Agrarian Reform Officers of Sagay and Escalante to facilitate the acquisition of the subject landholdings and the distribution of the same qualified beneficiaries.

SO ORDERED.^[7]

Respondent DECS appealed the case to the Secretary of Agrarian Reform which affirmed the Order of the Regional Director.^[8]

Aggrieved, respondent DECS filed a petition for certiorari with the Court of Appeals, which set aside the decision of the Secretary of Agrarian Reform.^[9]

Hence, the instant petition for review.

The pivotal issue to be resolved in this case is whether or not the subject properties are exempt from the coverage of Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1998 (CARL).

The general policy under CARL is to cover as much lands suitable for agriculture as possible.^[10] Section 4 of R.A. No. 6657 sets out the coverage of CARP. It states that the program 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:

(a) All alienable and disposable lands of the public domain devoted to or suitable for agriculture. No reclassification of forest or mineral lands to agricultural lands shall be undertaken after the approval of this Act until Congress, taking into account, ecological, developmental and equity considerations, shall have determined by law, the specific limits of the public domain;

(b) All lands of the public domain in excess of the specific limits as determined by Congress in the preceding paragraph;

(c) All other lands owned by the Government devoted to or suitable for agriculture; and

(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) thereof defines “agricultural land,” as “land devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential,

commercial or industrial land.” The term “agriculture” or “agricultural activity” is also defined by the same law as follows:

Agriculture, Agricultural Enterprises or Agricultural Activity means the cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock, poultry or fish, including the harvesting of such farm products, and other farm activities, and practices performed by a farmer in conjunction with such farming operations done by persons whether natural or juridical.^[11]

The records of the case show that the subject properties were formerly private agricultural lands owned by the late Esteban Jalandoni, and were donated to respondent DECS. From that time until they were leased to Anglo Agricultural Corporation, the lands continued to be agricultural primarily planted to sugarcane, albeit part of the public domain being owned by an agency of the government.^[12] Moreover, there is no legislative or presidential act, before and after the enactment of R.A. No. 6657, classifying the said lands as mineral, forest, residential, commercial or industrial land. Indubitably, the subject lands fall under the classification of lands of the public domain devoted to or suitable for agriculture.

Respondent DECS sought exemption from CARP coverage on the ground that all the income derived from its contract of lease with Anglo Agricultural Corporation were actually, directly and exclusively used for educational purposes, such as for the repairs and renovations of schools in the nearby locality.

Petitioner DAR, on the other hand, argued that the lands subject hereof are not exempt from the CARP coverage because the same are not actually, directly and exclusively used as school sites or campuses, as they are in fact leased to Anglo Agricultural Corporation. Further, to be exempt from the coverage, it is the land *per se*, not the income derived therefrom, that must be actually, directly and exclusively used for educational purposes.

We agree with the petitioner.

Section 10 of R.A. No. 6657 enumerates the types of lands which are exempted from the coverage of CARP as well as the purposes of their exemption, *viz*:

X X X

X X X

X X X

c) Lands actually, directly and exclusively used and found to be necessary for national defense, school sites and campuses, including experimental farm stations operated by public or private schools for educational purposes, ... , shall be exempt from the coverage of this Act.^[13]

X X X

X X X

X X X

Clearly, a reading of the paragraph shows that, in order to be exempt from the coverage: 1) the land must be “*actually, directly, and exclusively used and found to be necessary;*” and 2) *the purpose is “for school sites and campuses, including experimental farm stations operated by public or private schools for educational purposes.”*

The importance of the phrase “*actually, directly, and exclusively used and found to be necessary*” cannot be understated, as what respondent DECS would want us to