

## SECOND DIVISION

[ G.R. No. 132048, March 06, 2002 ]

**HON. ANTONIO M. NUESA IN HIS CAPACITY AS THE REGIONAL DIRECTOR OF DAR REGION III AND RESTITUTO RIVERA, PETITIONERS, VS. HON. COURT OF APPEALS (14TH DIV.), HON. DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD (DARAB) AND JOSE VERDILLO, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

This petition for review seeks to reverse the decision<sup>[1]</sup> dated December 19, 1997, of the Court of Appeals which upheld the ruling of the Department of Agrarian Reform Adjudication Board or DARAB in favor of private respondent Jose Verdillo.

The facts of this case, as borne by the records, are as follows:

On May 25, 1972, then Secretary of Agrarian Reform issued an "Order of Award" in favor of Jose Verdillo over two (2) parcels of agricultural land, Lots 1932 and 1904 of the Buenavista Estate, San Ildefonso, Bulacan, covering 14,496 and 19,808 square meters, respectively, under the following conditions:

That within a period of six (6) months from receipt of a copy, the awardee(s) shall personally cultivate xxx or otherwise develop at least one-fourth of the area xxx or occupy and construct his/her house in case of residential lot and pay at least the first installment xxx; failure on his/her part to comply with this requirement shall be sufficient cause for cancellation of this order and for allocation xxx in favor of any qualified xxx applicant; and that in no case shall an agreement to sell or deed of sale, as the case may be, issued in favor of the awardee(s) covering the lots without a certification issued by the Land Reform Project Team Leader of Land Settlement Superintendent that the awardee(s) has/have developed or devoted to some productive enterprise at least one-half of the area thereof, or constructed his/her/their house therein in case of residential land.<sup>[2]</sup>

On August 26, 1993, or after twenty-one years, private respondent filed an application with the Regional Office of the Department of Agrarian Reform for the purchase of said lots claiming that he had complied with the conditions set forth in the Order. Restituto Rivera, herein petitioner, filed a letter of protest against private respondent claiming that contrary to the manifestation of private respondent, it is petitioner who had been in possession of the land and had been cultivating the same.<sup>[3]</sup> Petitioner had filed his own application for said parcels in opposition to that of private respondent.

On December 27, 1993, a representative of the Department of Agrarian Reform Regional Office undertook an investigation to look into the conflicting claims of the petitioner and the private respondent. Based on said investigation, it was found that:

xxx the subject lots were previously tenanted by other persons namely, Agapito Garcia and Pablo Garcia for almost sixteen years prior to the entry of Restituto Rivera in 1972 for Lot 1904 and in 1986 for Lot 1932 (pt.) Restituto Rivera at the time of investigation is still in possession/cultivation of the lots in question. These facts have never been refuted by Jose Verdillo who further testified that Restituto Rivera used to pay annual rental of 25 cavans for Lot 1932 (pt.) and 15 cavans of palay for Lot 1904.

xxx

In the investigation...it was undoubtedly established that Lots 1932 (pt.) and 1904, Psd-52045, were in possession/cultivation of tenants or other persons exclusive of Jose Verdillo...It is crystal clear that Jose Verdillo has culpably violated the terms and conditions of the Order of Award issued in his favor for lots covered thereby.<sup>[4]</sup>

On January 24, 1994, petitioner, the Regional Director of DAR, Antonio M. Nuesa, promulgated an Order whose decretal portion reads:

WHEREFORE, premises considered, Order is hereby issued cancelling Order of Award dated May 25, 1972 issued in favor of Jose Verdillo for Lot 1932 (pt.) and Lot 1904, Psd-52045, Buenavista Estate, for violation of the rules and regulations pertaining to the disposition of lots in landed estates and forfeiting whatever payments made by him on account thereof in favor of the government. Accordingly, the subject lots are hereby declared vacant and open for disposition in favor of qualified applicant.

Let the application of Restituto Rivera to purchase these lots be processed in accordance with existing rules and regulations.<sup>[5]</sup>

Aggrieved by the cancellation of his award, private respondent then filed on March 20, 1994, a Petition with the Provincial Adjudication Board, Region III, for Annulment of said Order. Instead of filing an Answer to the Petition, herein petitioners (as respondents below) filed a Motion to Dismiss the Petition on the ground that the proper remedy was an appeal to the Secretary of the Department of Agrarian Reform from the Order of the Regional Director, under DAR Memorandum Circular No. 5-87, and not by a Petition with the DARAB Provincial Adjudicator, hence, the aforesaid Order had become final and executory. The petitioners manifested that they were no longer submitting their position paper and were opting to rely solely on their Motion to Dismiss.<sup>[6]</sup>

The DARAB Provincial Adjudicator, however, chose to resolve the case on the merits and on October 14, 1994, promulgated a Decision denying the petitioners' Motion to Dismiss and reversing the Order of the Regional Director, thus:

WHEREFORE, in view of the foregoing, decision is hereby rendered as follows:

1. Declaring the Order dated January 24, 1994 issued by the then public respondent null and void being contrary to public policy;
2. Directing the Landed Estate Division, Department of Agrarian Reform, Regional Office, San Fernando, Pampanga to immediately execute the necessary deed of conveyance and/or title of the subject landholdings in favor of petitioner, JOSE VERDILLO; and
3. Declaring the subject landholdings fully paid and all rights appurtenant thereto is vested to the herein petitioner.<sup>[7]</sup>

Petitioner Rivera filed a Motion for Reconsideration from said Decision, but it was denied by the DARAB Provincial Adjudicator.<sup>[8]</sup> He then interposed an appeal before the DAR Appellate Adjudication Board (DARAB), Diliman, Quezon City. On May 2, 1996, the Board issued its decision affirming that of the Provincial Adjudicator, thus:

WHEREFORE, in view of the foregoing, the appeal is hereby DENIED by affirming the decision, dated October 14, 1994 of the Hon. Adjudicator for the Province of Bulacan.

Likewise, there being no cogent reason to disturb the Order of February 22, 1995, the same is hereby AFFIRMED.<sup>[9]</sup>

The Petition for Review filed by herein petitioners with the Court of Appeals was denied due course and ordered dismissed, with costs against petitioner Rivera.<sup>[10]</sup>

Hence, this Petition for Review raising the following errors:

#### I

THAT THE HONORABLE COURT OF APPEALS ERRED IN DENYING AND DISMISSING THE CLAIM OF THE PETITIONERS THAT THE DECISION OF THE BOARD (DARAB) WAS ISSUED IN EXCESS OF JURISDICTION.

#### II

THAT THE HONORABLE COURT OF APPEALS ERRED IN INTERPRETING THE APPLICABLE AGRARIAN LAWS ON THE MATTER.<sup>[11]</sup>

Briefly stated, the issue for resolution is whether or not the Court of Appeals erred in denying petitioners' claim that in this case, the Board (DARAB) acted in grave abuse of discretion tantamount to lack or excess of its jurisdiction.

According to petitioners, the Court of Appeals and the DARAB in affirming the decision of the Provincial Adjudicator of Bulacan committed grave abuse of discretion, tantamount to or in excess or lack of jurisdiction, because public respondents in their questioned Orders/Decisions merely focused on the procedural aspect, avoiding the substantial merits of the case. Petitioners add that public respondents brushed aside the fact that this case involves the conflicting

applications to purchase lots within the Buenavista Estate, San Ildefonso, Bulacan, which is under the administration and disposition of the DAR pursuant to the mandate of C.A. No. 539,<sup>[12]</sup> as amended by R.A. No. 1400.<sup>[13]</sup> According to petitioners, this case is not, strictly speaking, a tenorial dispute there being no landlord and tenant relationship, but involves the disposition of the lots subject of the controversy between private petitioner and private respondent. Hence, they contend that this case involves the strict administrative implementation and award of lots within the Buenavista Estate. They conclude that this being the case, the matter falls under the exclusive jurisdiction and administrative competence of the DAR (Regional Director and Department Secretary) and not of the DARAB (including the Provincial Adjudicator and the Provincial Adjudication Board itself).

Moreover, petitioners argue, the Order of Director Nuesa dated January 24, 1994, is in keeping with the mandate of the governing agrarian reform law, i.e., C.A. No. 539, as amended by R.A. No. 1400, which requires that lots within the Buenavista Estate shall be strictly awarded and/or disposed of to qualified tenant-beneficiaries.

They also assert that private petitioner Rivera is the one in peaceful, adverse, open, continuous and exclusive possession, occupation and cultivation of said lots for the last twenty-one (21) years, while private respondent Verdillo had culpably violated the terms and conditions set forth in the Order of Award in 1972. Citing jurisprudence,<sup>[14]</sup> they claim private respondent Verdillo should be barred by estoppel, whereas petitioner Rivera should be deemed to have acquired, by operation of law, a right to a government grant without the necessity of a certificate of title issued therein since the conditions set by law have been complied with by him.<sup>[15]</sup>

Finally, petitioners submit that public respondents grossly erred in affirming the decision of the Provincial Adjudicator at Malolos, Bulacan, because when private respondent filed his petition to the DAR Provincial Adjudication Board on March 20, 1994, against the DAR Regional Director of Region III and private petitioner Restituto Rivera for the annulment of Order, said Order dated January 24, 1994, of public petitioner had already become final and executory. According to petitioners, no Motion for Reconsideration and/or appeal was interposed by private respondent. Therefore, they conclude that the decision of Director Nuesa had already acquired finality.<sup>[16]</sup>

In turn, private respondent Jose Verdillo argues that no grave abuse was committed by the provincial adjudication officer and provincial board of adjudicators when they decided the case on the merits in resolving petitioners' Motion to Dismiss, and by the Central DARAB and the Court of Appeals when they affirmed said decision. According to him, the DARAB is not bound by the technical rules of procedure as provided under Sec. 3 of the DARAB Rules of Procedure,<sup>[17]</sup> and Sec. 2 of Rule 1 of the DARAB Rules.<sup>[18]</sup> The Provincial Adjudication Board's action, according to private respondent, sought to avoid unnecessary delays in the adjudication of agrarian disputes.<sup>[19]</sup> Moreover, he contends, there is no basis for the allegation that the Court of Appeals erred in appreciating applicable agrarian laws.<sup>[20]</sup>

In his Supplemental Memorandum, private respondent further refuted the results of the DAR investigation dated December 27, 1993, and the subsequent Order of