

## THIRD DIVISION

[ G.R. No. 110335, June 18, 2001 ]

**IGNACIO GONZALES, LILIA R. GONZALES, GUSTAVO R. GONZALES, WIGBERTO R. GONZALES, GILDA GONZALES-SALUTA, FERNANDO RAMIREZ, OCTAVIO RAMIREZ, JR., IGNACIO RAMIREZ, ESMIRNA RAMIREZ, MERCEDES GONZALES-FAVIZ, JAIME GONZALES, FEDERICO GONZALES, ROSARIO GONZALES, PATRICIA GONZALES, DANIEL GONZALES, ALDO GONZALES, CLAUDIA GONZALES AND AMANDA GONZALES, PETITIONERS, VS. HONORABLE COURT OF APPEALS, ESTANISLAO SALVADOR, MATEO SALVADOR, ALBERTO SARMIENTO, MAXIMO ESGUERRA, MAMERTO ANTONIO, VIRGILIO DE GUZMAN, ANGEL FAJARDO, ABAD DELA CRUZ, PEDRO FAJARDO, JUANITO DE LARA, ELIGIO DE GUZMAN, SALVADOR MARTINEZ, EDUARDO DELA CRUZ, JOSE MATIAS, SOLEDAD ESTRELLA, ROMAN GUINGON, CIRILO SALVADOR, CATALINA DELA CRUZ, BERNARDO ESGUERRA, JR., GLORIA CABANA, PAQUITO CHAVEZ, RENATO GARCIA, FRANCISCO PASCUAL, WALDO SALVADOR, MARIO SALVADOR, PEDRO GARCIA, ALBINO SALVADOR, ANTONIO DE GUZMAN, AMBROCIO SALVADOR, TERESITA CAPATE, EDUARDO TALENS, BENIGNO CARAIG, ERNESTO BERNABE, SERGIO CARLOS, SIMEON BALINGAY, ANTONIO NANGEL, TEOFILO BINUYA AND WILFREDO DELA CRUZ, RESPONDENTS.**

## DECISION

**MELO, J.:**

Per A.M. No. 00-9-03-SC dated February 27, 2001, this case which could have been acted upon earlier, was raffled to undersigned *ponente*. Essentially, petitioners seek to annul and set aside the decision dated March 15, 1993 of the Court of Appeals in its CA-G.R. SP No.26416 which reversed the ruling of then Secretary of Agrarian Reform Benjamin T. Leong, as well as the order dated May 17, 1993 denying reconsideration thereof.

The factual antecedents of the instant case may be chronicled as follows:

The now deceased spouses Ignacio Gonzales and Marina Gonzales were the registered owners of two parcels of agricultural Land situated at Barrio Fortaleza, Cabanatuan City, covered by Transfer Certificate of Title No. 2742 and denominated as Lot 551-C and Lot 552-A. Lot 551-C contains an area of 46.97 hectares while Lot 552-A contains an area of 37.5735 hectares. Herein petitioners are the successors-in-interest or the children and grandchildren of said Gonzales spouses. On the other hand, private respondents are the farmers and tenants of said spouses who have been cultivating the parcels of land even before World War II either personally or through their predecessors-in-interest.

On May 7, 1969, Marina Gonzales died intestate and appointed as administratrix of her estate was petitioner Lilia Gonzales. Prior to the partition of said estate, Ignacio Gonzales executed a Deed of Donation on July 12, 1972 conveying his share of the property, specifically Lot No. 551-C, in favor of his 14 grandchildren. The said donation was not registered. Thus, when Presidential Decree No. 27 (P.D. No. 27) took effect on October 21, 1972, the landholdings of the spouses Gonzales were placed under Operation Land Transfer by virtue of said decree, and private respondents were accordingly issued the corresponding Certificates of Land Transfer and Emancipation Patents. On March 5, 1974, the administratrix Lilia Gonzales filed an application for retention with the then Ministry of Agrarian Reform, requesting that their property be excluded from the coverage of Operation Land Transfer. After initial investigation, Hearing Officer Melchor Pagsolingan recommended the denial of said application for retention and this action was affirmed by Assistant Secretary of Agrarian Reform Benjamin Labayen, in an order dated September 12, 1977. Apparently, however, a reinvestigation was conducted, resulting in the present Department of Agrarian Reform (DAR) resolution dated February 23, 1983 recommending that the land subject of the deed of donation, or Lot No. 551-C, be exempt from Operation Land Transfer. On September 3, 1991, DAR Secretary Benjamin Leong issued an order declaring that the subject landholdings covered by the deed of donation are exempt from Operation Land Transfer, and cancelling the Certificates of Land Transfer issued in favor of private respondents. In so ruling, the DAR Secretary reasoned:

As the donation had been duly accepted by the donees who were already of legal age on the date of the donation and by the legal guardians of the donees who were still minors at that time, and the donor having known of said acceptance, the donation had therefore been perfected in accordance with the law, and the donees had acquired a valid title to the portion donated on the date the instrument was executed.

(p. 4, DAR Order.)

Aggrieved by this ruling, private respondents filed a petition for certiorari with the Court of Appeals which rendered its decision on March 15, 1993, reversing the action of the DAR and upholding the certificates of land transfer and emancipation patents.

Petitioners moved for a reconsideration of the above decision but the same was denied by the Court of Appeals in its Resolution dated May 17, 1993.

Thus, the instant petition anchored on the following grounds:

- A. the CA failed to reconsider that the land subject of this case does not fall within the purview of P.D. 27;
- B. the CA should have found that the evidence clearly shows that the tenants (private respondents herein) were aware that the land had been donated by Ignacio Gonzales in favor of his grandchildren

prior to the effectivity of P.D. 27; and

C. the effect of non-registration under the land registration laws are inapplicable to the present case.

The first and third assigned errors, being interrelated, shall be jointly discussed.

The sole issue to be resolved is whether the property subject of the deed of donation which was not registered when P.D. No. 27 took effect, should be excluded from the Operation Land Transfer.

Petitioners insist that the deed of donation executed by Ignacio Gonzales validly transferred the ownership and possession of Lot 551-C which comprises an area of 46.97 hectares to his 14 grandchildren. They further assert that inasmuch as Lot 551-C had already been donated, the same can no longer fall within the purview of P.D. No. 27, since each donee shall have a share of about three hectares only which is within the exemption limit of seven hectares for each landowner provided under P.D. No. 27.

Article 749 of the Civil Code provides *inter alia* that "in order that the donation of an immovable may be valid, it must be made in a public document, specifying therein the property donated and the value of the charges which the donee must satisfy." Corollarily, Article 709 of the same Code explicitly states that "the titles of ownership, or other rights over immovable property, which are not duly inscribed or annotated in the Registry of property shall not prejudice third persons." From the foregoing provisions, it may be inferred that as between the parties to a donation of an immovable property, all that is required is for said donation to be contained in a public document. Registration is not necessary for it to be considered valid and effective. However, in order to bind third persons, the donation must be registered in the Registry of Property (now Registry of Land Titles and Deeds). Although the non-registration of a deed of donation shall not affect its validity, the necessity of registration comes into play when the rights of third persons are affected, as in the case at bar.

It is actually the act of registration that operates to convey registered land or affect title thereto. Thus, Section 50 of Act No. 496 (Land Registration Act), as amended by Section 51 of P.D. No. 1529 (Property Registration Decree), provides:

**SEC. 51. Conveyance and other dealings by registered owner - . . .**

But no deed, mortgage, lease, or other voluntary instrument, except a will purporting to convey or affect registered land, shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the Register of Deeds to make registration.

The act of registration shall be the operative act to convey or affect the land insofar as third persons are concerned, . . .

Further, it is an entrenched doctrine in our jurisdiction that registration in a public registry creates constructive notice to the whole world (*Olizon vs. Court of Appeals*,