414 Phil. 417

SECOND DIVISION

[G.R. No. 138289, July 31, 2001]

GRACIANO PALELE, PETITIONER, VS. HON. COURT OF APPEALS, (FOURTH DIVISION) AND TOMAS SOBREVIÑAS, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

This is a petition for review on certiorari of the decision,[1] dated February 4, 1999, of the Court of Appeals, reversing the decision of the Department of Agrarian Reform Adjudication Board (DARAB), which affirmed *in toto* the decision of the Department of Agrarian Reform Provincial Adjudication Board of Bataan awarding two parcels of land to petitioner Graciano Palele.

The background of the case is as follows:

The properties involved in this case form part of a larger tract of land, referred to as Lot No. 707, consisting of 9,939 square meters in Dinalupihan, Bataan. The original holder-cultivator of the lot was respondent Tomas Sobreviñas' father, Daniel, who had worked on the lot as a tenant since the 1920's. After Daniel died, Tomas succeeded to the possession of the said land.

On May 2, 1962, private respondent filed an application with the Department of Agrarian Reform for the purchase of Lot No. 707. He paid the purchase price of P810.66 in five installments and completed payments on the land on September 7, 1973.[2] However, despite his full payment of the purchase price, no deed of sale was issued to him, and the lot remained the property of the government.

In 1981, the lot was subdivided into four parcels, to wit:

Lot No. 2681	5,262 sq. meters
Lot No. 2682	563 sq. meters
Lot No. 2683	1,044 sq. meters
Lot No. 2679	3,070 sq. meters
TOTAL	9,939 sq. meters[3]

On September 25, 1990, petitioner applied for the purchase of Lot Nos. 2679 and 2683. On December 19, 1991, the DAR issued to him Certificate of Land Ownership Award Nos. 2361 and 2362, covering Lot Nos. 2679 and 2683, respectively. Not

knowing these incidents, private respondent continued paying the real estate taxes on Lot No. 707. Upon learning of the issuance of CLOAs in favor of petitioner, he filed on August 18, 1992 a petition for cancellation of the certificates. The case was filed with the Department of Agrarian Reform Provincial Adjudication Board of Bataan or PARAD. On January 18, 1993, private respondent filed an amended petition for cancellation.

On September 23, 1993, the PARAD rendered judgment for petitioner. The dispositive portion of its decision reads:

> WHEREFORE, premises considered, a decision is hereby rendered as follows:
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> 1. DECLARING protestant-petitioner to be disqualified to purchase the subject lots;
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> 2. DECLARING TCT-CLOA 2362, covering Lot No. 2683, containing an area of 1,044 sq. meters, located at Brgy. Luacan, Dinalupihan, Bataan, issued in the name of Graciano Palele to be validly and correctly issued;
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> 3. DIRECTING the Register of Deeds of Bataan to cancel TCT-CLOA No. 2361, covering Lot No. 2679, containing an area of 3,071 sq. meters, located at Brgy. Luacan, Dinalupihan, Bataan, issued in the name of Graciano Palele;
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> 4. DIRECTING the Municipal Agrarian Reform Office, Dinalupihan, Bataan to initiate the conduct of a subdivision survey of the aforementioned Lot No. 2679, and thereafter issue a new CLOA, covering 1,000 sq. meters of the same to Graciano Palele and the rest be awarded to the actual occupants or to qualified beneficiaries as the case may be.
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> No pronouncement as to cost.
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> SO DECIDED.[4]

Private respondent appealed to the DARAB, but the latter affirmed *in toto* the decision of the PARAD.[5] Consequently, private respondent filed a petition for review before the Court of Appeals which, on February 4, 1999, reversed the decision of the DARAB and rendered judgment for private respondent. The dispositive portion of the Court of Appeals' decision reads:

> WHEREFORE, in the light of the foregoing disquisitions, the petition for review is hereby GRANTED. The decision of the respondent Department of Agrarian Reform Adjudication Board (DARAB), affirming the decision of the Provincial Adjudication Board, is REVERSED and SET ASIDE. Accordingly, Certificate of Land Ownership Award (CLOA) No. 2362, covering lot 2683, and CLOA No. 2361, covering lot 2679, are ordered RECALLED and CANCELLED.
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> SO ORDERED.[6]

Hence, this petition for review on certiorari. Petitioner contends that:

A. THE HONORABLE COURT OF APPEALS (FOURTH DIVISION) COMMITTED AN ERROR IN HOLDING THAT PRIVATE RESPONDENT TOMAS SOBREVIÑAS ACQUIRED A VESTED RIGHT ON THE SUBJECT LANDHOLDING WHICH IS A PART OF THE DINALUPIHAN LANDED ESTATE.

B. THE HONORABLE COURT OF APPEALS (FOURTH DIVISION) COMMITTED AN ERROR IN DISREGARDING THE FINDINGS OF FACTS OF THE DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD (DARAB, FOR BREVITY) AND THE RULES AND POLICIES ISSUED BY THE LATTER.[7]

After due consideration of the records, we find that the Court of Appeals erred in reversing and setting aside the decision of the DARAB.

First. At the time private respondent applied to purchase Lot No. 707 on May 2, 1962, the law in effect was R.A. No. 1199, otherwise known as the Agricultural Tenancy Act of the Philippines, which took effect on August 30, 1954. Pursuant to the said law, the then Land Tenure Administration, the implementing agency of the government, issued Administrative Order No. 2, which was approved on May 10, 1956. So far as pertinent to this case, §§ 14 and 16 of the order provided:

> Section 14. Persons Qualified to Purchase; Number of Lots Granted. - Subject to the provisions of Section 16 hereof, *any private individual who is qualified to acquire and own lands in the Philippines and who will personally cultivate and/or occupy the lot or lots which may be sold to him*, may be allowed to purchase not more than one (1) home lot and/or farm lot except that in case of farm lots with areas less than six (6) hectares, more than one (1) lot may be purchased provided, however, that the total area of the lots which may be sold to one person shall not exceed six (6) hectares.
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> The cultivation of a farm lot by the husband or wife of the purchaser thereof, and by the members of the family of said purchaser who are dependent upon him or her for support shall be considered as his or her cultivation for the purpose of this section and of Sections 24 and 25 hereof.
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> Section 16. Right of Preference to Purchase of Bona-fide Tenant, Bona-fide Occupant and Other Persons. - The bona-fide tenant and in his absence or if he fails to qualify under Section 14 hereof, the bona-fide occupant of a subdivision lot in a private agricultural land acquired by the government shall have the right of preference to purchase said lot. In the absence of the bona-fide tenant and/or bona-fide occupant or in case said tenant and occupant fail to qualify under Section 14 hereof and subject to the provision of said section, the following persons shall be preferred in the purchase of a farm lot and/or home lot, in the order in which they are named:
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> (1) A person who is the purchaser of a farm lot or lots in an agricultural

land acquired by the government, the production of which yields a net profit insufficient to maintain a decent standard of living provided, however, that he will be preferred only as to the portion of the farm lot applied for in the same agricultural land which if added to the area of the lot or lots already sold to him will not exceed six (6) hectares;

(2) A person who is a resident of the municipality where the lot applied for is located.[8]

These provisions clearly require that the applicant should personally cultivate and/or occupy the land subject of the purchase. This requirement is reiterated in §§ 23 and 24 of the same order, viz:

Section 23. Execution of Deeds of Sale. - The Chairman of the Land Tenure Administration shall execute a deed of sale conveying a subdivision lot in favor of the purchaser thereof upon payment by the latter of all rentals for the use of the said lot which are found to be in arrears, and of the selling price thereof in full, *and upon the performance by said purchaser of all conditions required herein* and in any agreement to sell made in his favor covering said lot. . . .

Section 24. Conditions in Agreements to Sell, Deeds of Sale and Torrens Title. - It shall be a condition in all agreements to sell and deeds of sale covering lots acquired under these rules and regulations *that said lots shall be personally occupied and/or cultivated by the purchasers thereof*. In case of a home lot, a purchaser thereof shall be deemed not to have complied with the condition therein set forth if within a period of two (2) years from the execution of the agreement to sell or deed of sale for said lot, he fails to construct thereon his place of residence. A purchaser of a farm lot who shall fail to start cultivation of said lot within six (6) months after the execution of his agreement to sell or deed of sale shall be deemed not to have complied with said condition. . . .[9]

Private respondent's application to purchase Lot No. 707 was approved by the Land Tenure Administration such that he was allowed to pay the purchase price on an installment basis. Hence, at the time respondent applied to purchase Lot No. 707 on May 2, 1962, he was a qualified purchaser in accordance with the law and its implementing rules, *i.e.*, that he was personally cultivating and/or occupying the lot being purchased.

However, private respondent admitted that he had not personally occupied and cultivated Lot No. 707 since August 8, 1963, more than a year after his application to purchase the lot, because he had instituted tenants on his landholding. This is shown by the allegation in his comment on the petition that the enactment on August 8, 1963 of R.A. No. 3844, otherwise known as the Agricultural Land Reform Code, prevented him from ejecting the tenants on Lot No. 707.[10] In other words, as early as August 8, 1963, prior to his full payment of the purchase price of Lot No. 707, he had already failed to comply with the requirement of personal cultivation and/or occupation of the lot being purchased because he was allegedly prevented by law from ejecting the tenants thereon. However, contrary to respondent's claim, §36, paragraph (1) of R.A. No. 3844 provided for the ejectment of tenants on the ground that the landholder shall personally cultivate the land.[11] It was only upon