

**ROBERTO DIONISIO AND JUNE DIONISIO, PETITIONERS, VS.
GERMINIO DEJARO AND ALEXIS M. ARSENAL, REGIONAL
DIRECTOR, DEPARTMENT OF AGRARIAN REFORM (DAR), REGION VI,
ILOILO CITY RESPOND...**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

Before Us is a Petition for Certiorari[1] under Rule 65 of the 1997 Rules of Civil Procedure, seeking to assail the December 16, 2011 Order[2] of the Department of Agrarian Reform, Region VI of Iloilo City, signed by Regional Director, Alexis M. Arsenal, and its May 14, 2012 Order[3] in Adm. Case No. A-0605-1125-2011. The dispositive portions of the assailed Orders, respectively read:

“WHEREFORE, premises considered, Order is hereby issued granting the herein Petition for Reallocation and/or Transfer Action through Succession. Accordingly, DECLARING the (private respondent) as the new reallocatee of the subject Lot Nos. 1007-7, 1007-9, 1007-12 and 1354-B.

The Municipal Agrarian Reform Officer (MARO) and the Provincial Agrarian Reform Officer (PARO) concerned are hereby DIRECTED to strictly implement this Order.

SO ORDERED.”

And

“WHEREFORE, premises considered, the herein Motion for Reconsideration of the Order dated December 16, 2011 with Motion for Attachment of Investigation Report of the MARO as affirmed by the PARO of DARPO Negros Occidental is DENIED for lack of merit. In the interest of justice and equity, the (private respondent) Germinio De Jaro shall compensate or reimburse whatever amounts that are due to the movants/ respondents and other concerned parties.”

SO ORDERED.”

The petition alleges that both aforequoted orders were issued with grave abuse of discretion amounting to lack of or in excess of jurisdiction, and thus prays that We render judgment reversing them.

THE ANTECEDENTS

The instant case was commenced by a Petition for Reallocation and/or Transfer Action through Succession, filed by herein respondent, Germanio Dejaró, under Presidential Decree (P.D.) No. 27 involving Lot Nos. 1007-4, 1007-7, 1007-12, 1007-9 and 1345-B of Bgry. Odiong, Moises Padilla, Negros Occidental. The lots were covered by TCT No. EP-2648, TCT No. EP-2578, TCT No. EP-2336, TCT No. EP-2334 and TCT No. EP-6618, respectively, and were all initially registered in the name of respondent's father, Gervacio Dejaró.

The records show that:

- Lot Nos. 1007-4, 1007-7, 1007-9, 1007-12 and 1345-B were covered by Operation Land Transfer (OLT) program of the government pursuant to P.D. No. 27. These lots were awarded to the late Gervacio Dejaró, who was married to Soledad Labrador. During Gervacio Dejaró's lifetime, he was issued Emancipation Patents covering all the lots tenanted by him as follows:

Name of EP Title No. Lot No Area Location

Gervacio Dejaró

EP-2684

1007-4 .4220 Brgy. Odiong Moises Padilla, Negros Occ.

EP-2578

1007-7 .8990 -do-

EP-2336

1007-12 .8163 -do-

EP-2334

1007-9 .6369 -do-

EP-6618

1354-B .0718 -do-

- Gervacio Dejaró died on March 10, 2010 while his wife, Soledad Labrador died on April 28, 1998.

- During the lifetime of the late Gervacio Dejaró, he was indebted to the following: Felix Talde, Roberto Dionisio, Angel Tenerife and Jun Dionisio.

- Lot No. 1007-9 covered by TCT No. EP-2366 containing an area of .6369 hectare was in the possession of Angel Tenerife as the same lot was sold to him by Gervacio Dejaró.

- However, the said Angel Tenerife turned over Lot No. 1007-9's possession and cultivation to the herein respondent when the latter reimbursed him of the purchased amount of Seventy Two Thousand (Php 72,000).

- Lot No. 1007-12 covered by TCT No. EP-2366 containing an area of .8163 hectares more or less is in the possession and cultivation of Felix Talde as during the lifetime of Gervacio Dejaró the latter was indebted to the former.

- Lot No. 7, with an area of .8990 hectare and Lot No.4 with an area of .4420 hectare are in the possession and cultivation of Roberto Dionisio and Jun Dionisio respectively, as said lots were used as collaterals for the loans extended to the said Gervacio Dejaró.

- In a mediation conference conducted by DAR, Municipal Office of Moises Padilla, Negros Occidental, respondent manifested his willingness to reimburse whatever amount of money extended by Felix Talde, Roberto

Dionesio, and Jun Dionesio to his deceased father, Gervacio Dejaró.

- Respondent likewise manifested his willingness to take over the possession and cultivation of the landholdings and to assume the rights and obligations of his late father as awardee under P.D. 27, such as, to pay the land amortization with the Land Bank of the Philippines, land taxes and to make the land productive.

- The said offer was turned down as the said Felix Talde, Roberto Dionesio and Jun Dionesio refused to turn over the possession and cultivation of the subject lots claiming that they have better rights to succeed over the said lots than the respondent.

On December 16, 2011, the DAR Regional Director rendered the first assailed Order. The Regional Director resolved the issue as to whom ownership and possession of the subject lots belong, and ruled in favor of petitioner, who is the direct heir of Gervacio Dejaró (the tiller of the subject lots when P.D. No. 27 was promulgated), over Felix Talde, Roberto Dionesio and Jun Dionesio, to whom the late Gervacio Dejaró transferred his rights during his lifetime in consideration of a certain amount of money.

Pertinent parts of the first assailed Order state:

Taking into consideration the circumstances surrounding this case, that is the giving of the subject lots by the late Gervacio Dejaró to the present possessors as guarantee for the payment of the loan he had incurred from them and bearing in mind the constitutional mandate on the recognition of the State to undertake an agrarian reform program founded on the right of farmers and regular farmworkers who are landless, to own directly or collectively the lands they till, this Office rule in favor of the herein petitioner.

xxx

Records show that Gervacio Dejaró, the holder of five (5) Emancipation Patents, and father of the (respondent), has indeed mortgaged the subject landholdings during his lifetime to Felix Talde, Roberto Dionisio, Angel Tenerife and Jun Dionisio by force of circumstances; that in fact he entered into an agreement with Felix Talde and as part of the agreement he agreed to waive all his rights over the property. However, the (respondent's) act in offering to redeem the landholdings mortgaged by his deceased father, negates his intention to transfer possession and ownership of the land. This notwithstanding, and assuming that the (respondent's) father really waived his tenancy rights in favor of the (petitioners), this case should still be resolved in favor of the (respondent). The transfer would still be void for being made in violation of P.D. No. 27, and therefore, void ab initio. (Applying by analogy, Spouses Ernesto Galicia et. al. vs. Marcelina Constantino, et. al. (C.A.-G.R No. SP No. 92561)

P.D. No. 27 specifically provides that title to land acquired pursuant to its mandate of to that of the Land Reform Program of the government shall not be transferable except to the grantee's heirs by hereditary succession, or back to the government by other legal means. The law is clear and leaves no room for interpretation. (Estolas vs. Mabalot, G.R. No. 133706) To hold otherwise will defeat the spirit and intent of P.D. No. 27, and the tillers will never be emancipated from the bondage of the soil. Indeed, Agrarian laws must be interpreted liberally in favor of the grantees in order to give full force and effect to the clear intent of such laws: to achieve a dignified existence for the small farmers; and to make them more independent, self-reliant and responsible citizens and source of genuine strength in our democratic society. (Catorce vs. Court of Appeals, No. L-59762)

The Chief of the Provincial Legal Assistance of DAR, Provincial Office of Negros Occidental affirmed the recommendation of the assigned Legal Officer for the grant of the Petition which recommendation, was concurred by the Provincial Agrarian Reform Officer (PARO) of the Province of Negros Occidental.

On March 26, 2012, herein petitioners Roberto Dionisio and June Dionisio filed their Motion for Reconsideration of the Order dated December 16, 2011 with Motion for Attachment of the Investigation Report of the MARO

Affirmed by PARO.[4] They alleged in their motion that the Honorable Regional Director has no Jurisdiction to take cognizance over the instant case for administrative procedures have not been observed such as 1) respondent failed to file a certification of non-forum shopping which is a ground for the dismissal of the ALI cases; 2) no summary proceeding or investigation was conducted by the PARO (under Sections 18.5 and 18.6 of the 2003 Agrarian Law Rules) before it furnished the Honorable Regional Director with its findings affirming the decision of the MARO; and 3) petitioners' right to be notified and heard under the due process of law, was violated by both the MARO and PARO when they did not furnish respondents with their own findings of the case. Petitioners likewise alleged that they have a better right of possession and ownership over the subject property.

In the said motion, petitioners also moved for the attachment of the investigation report of the MARO of Moises Padilla, Negros Occidental and that they be furnished with the copy of the investigation report.

On May 14, 2012, the Regional Director rendered the second assailed Order, denying the Motion for Reconsideration of the Order dated December 16, 2011 with Motion for Attachment of Investigation Report of the MARO as Affirmed by the PARO of DARPO Negros Occidental. The DAR ratiocinated that:

“It must be aptly stressed and emphasized that in the Resolution of Agrarian Legal Implementation Cases, only substantial evidence is required, and it is not governed by strict rules and procedures. In accordance with law and jurisprudence, the Regional Director has the original and exclusive jurisdiction and authority to resolve agrarian conflicts, such as the instant case. The (petitioners)/ movants failed to realize that Section 27 of RA 6657 as amended by RA 9700 and the cited case of Lebrudo V. Loyola recognize the first preference in the enumerated four (4) exceptions, the hereditary succession by Germinio De Jaro. In the instant case, (petitioners)/movants are yet to be qualified as beneficiaries. Granting arguendo that the conveyances were made after the 10-year prohibitory period had already elapsed, the subject lots must be fully paid by the original EP/CLOA holder and its conveyance would still require DAR Clearance pursuant to A.O No. 8, Series of 1995, in order that the new title be issued to the buyer/ transferee. In sum, the (respondent) Germinio De Jaro has superior rights over the (petitioners)/ Movants pursuant to Section 27 of RA 6657 as amended by RA 9700 as heir and successor in interest over the subject properties in consonance with other pertinent agrarian reform law, rules and regulations.

Initial investigation reveals that the allegations and documents and evidences that were presented by the (petitioners)/movants are inadequate to overturn the assailed Order that was issued by this Office on December 16, 2011.”

Aggrieved by the above-quoted Order, petitioners filed the instant Petition for Certiorari, submitting that the Honorable Regional Director of DAR, Alexis M. Arsenal has gravely abused his discretion which amounted to lack or excess of jurisdiction, when he granted the letter request of Private Respondent Germinio De Jaro for the transfer of the Five (5) Emancipation Patents of his deceased father, Gervacio De Jaro in his favor, when the 2003 ALI Rules were not observed in the conduct of the investigation.

OUR RULING

We deem it important to stress in the outset, that We give due course to the instant Petition for Certiorari, in recognition of Section 54 of RA 6657[5] which states:

SECTION 54. Certiorari. — Any decision, order, award or ruling of the DAR on any agrarian dispute or on any matter pertaining to the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform may be brought to the Court of Appeals by certiorari except as otherwise provided in this Act within fifteen (15) days from the receipt of a copy thereof. The findings of fact of the DAR shall be final and conclusive if based on substantial evidence.

RA 6657 is the law which vests the DAR with quasi-judicial powers to adjudicate agrarian reform matters, and it is by this law that the 2003 ALI Rules of Procedure, (which rule governs the instant case) were promulgated.

It is explicit in the 2003 Rules of Procedure for ALI Cases[6] that the DAR shall not be bound by technical rules of procedure and evidence; and that its governing rules shall be liberally construed in favor of carrying out the objectives of agrarian reform, to promote a just, expeditious, and inexpensive determination of agrarian cases.[7] However, We find as arbitrary the DAR Regional Director's evident disregard of said rules in the instant case. The essential and mandatory provisions thereof have been blatantly violated by the Regional Director's investigating officers, during the proceedings of the case, thus We believe that his corresponding issuances, have been rendered with grave abuse of discretion amounting to lack of or in excess of jurisdiction.

According to petitioners, there was in the original case below Us, a violation of the rule on forum shopping, as prescribed in Section 14 thus:

SECTION 14. Forum Shopping.

14.1. The applicant/petitioner shall certify under oath in the application or initiatory pleading, or its integral annex, a sworn certification that:

14.1.1. He has not theretofore commenced any other action or proceeding involving the same land or issue in any court, tribunal, or quasi-judicial agency;

14.1.2. To the best of his knowledge, no such action or proceeding is pending in any court, tribunal, or quasi-judicial agency;

14.1.3. If there is any action or proceeding which is either pending or may have been terminated, he shall state the status thereof; and

14.1.4. If he thereafter learns that a similar action or proceeding has been filed or is pending before any court, tribunal, or quasi-judicial agency, he undertakes to report that fact within five (5) days therefrom to the DAR office where the ALI case is pending.

For respondent in initiating his case against petitioners, allegedly filed a “letter request” to the Provincial Agrarian Reform, which did not include the requisite sworn Certification of Non-Forum Shopping. This We verified from the records, and thus We opine that the petition should have been summarily dismissed in consonance with the succeeding subsection, viz:

14.2. Failure to file a certification of non-forum-shopping and/or subsequent discovery of commission of forum-shopping shall be grounds for summary dismissal of the ALI case. Xxx

In the instant petition however, the letter-request of respondent before the MARO (before whom the initial mediation-conciliation procedure was initiated), was on the contrary, given due course. Such initial action was clearly not in accord with the rules, for the MARO, considering the mandatory word “shall” in the aforequoted ruled, should have axed the petition or at the least, should have ordered its rectification, for very special circumstances or compelling reasons.[8] These the MARO did not do.

Aside from Section 14, petitioners likewise allege that in the disposition of the original case by the MARO (during mediation and conciliation) and by the PARO (during investigation), there was a violation of Sections 18.4 and 18.5 of the 2003 Rules of Procedure for ALI Cases. The MARO allegedly did not furnish petitioners with a copy of the written report; while the PARO allegedly did not conduct its own investigation between and in the presence of the parties, in affirming the findings of the MARO before transmitting its recommendations to the Regional Director. Section 18[9] pertinently prescribes:

SECTION 18. Procedure.

18.1. xxx

18.2. After notifying all parties, the MARO and Barangay Agrarian Reform Committee (BARC) shall exert exhaustive efforts at mediation and conciliation to persuade the parties to arrive at an amicable settlement or compromise.

18.3. The issue of whether or not the land is subject to coverage under PD 27 or RA 6657 shall not be the subject of compromise.

18.4. If mediation/conciliation fails, the MARO shall, within five (5) working days from termination thereof, transmit the case folder to the PARO with a written report explaining the reasons for the mediation/conciliation's failure, furnishing all the parties with a copy of the written report.

18.5. Investigation. The PARO, or any Investigating Officer or Committee which he or the Regional Director may designate, shall conduct investigations and perform whatever is necessary to achieve a just, expeditious, and inexpensive disposition of the case.

18.6. Record of proceedings. The proceedings shall be recorded by a stenographer. In the absence of an available stenographer, the Investigating Officer shall make a written summary of the proceedings, including the substance of the evidence presented which shall be attested to by the parties or their counsel and shall form part of the records of the case. Should any party or counsel refuse to sign, the reason for such refusal shall be noted therein.

The alleged violations in the proceedings have not been rebutted by the respondents. As petitioners' allegations stand, in the absence of controverting evidence, We consequently find that there was a violation of petitioners' right to procedural due process, having been deprived of their right to know of the status of the case against them, and of their right to be heard. As lamented by petitioners:

“As soon as the written report of the MARO had been transmitted to the PARO, the latter did not call for any conference among the parties in order to examine the facts surrounding the case. The petitioners were not given the opportunity to fully present their side proving that they are the rightful owners of the subject property. xxx There was a patent violation of procedural rules thereby preventing the petitioners from advancing their side.”

The essence of due process in administrative proceedings is the opportunity to explain one's side or seek a reconsideration of the action or ruling complained of, and to submit any evidence a party may have in support of his defense. The demands of due process are sufficiently met when the parties are given the opportunity to be heard before judgment is rendered.[10] In *Casimiro v. Tandog*, [11] the Supreme Court held:

“The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard. In administrative proceedings, such as in the case at bar, procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. “To be heard” does not mean only verbal arguments in court; one may be heard also thru pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.

In administrative proceedings, procedural due process has been recognized to include the following: (1) the right to actual or constructive notice of the institution of proceedings which may affect a respondent's legal rights; (2) a real opportunity to be heard personally or with the assistance of counsel, to present witnesses and evidence in one's favor, and to defend one's rights; (3) a tribunal vested with competent jurisdiction and so constituted as to afford a person charged administratively a reasonable guarantee of honesty as well as

impartiality; and (4) a finding by said tribunal which is supported by substantial evidence submitted for consideration during the hearing or contained in the records or made known to the parties affected.

Here however, petitioners were not able to actively participate in the proceedings before the PARO. There was an absence of a fair and reasonable opportunity for them to present their side. They only knew of the adverse findings against them, when they received the first assailed Order of the DAR Regional Director. Evidently, the essence of due process which is the right to be heard, was not afforded to them. For this reason, the writ should issue and the Orders rendered by the Regional Director should be annulled.[12]

We shall no longer decide on the issue posed by petitioners as to who among the parties has a better right to the realty subject of the petition below Us. More than being unnecessary, the focus of inquiry in this petition, is grave abuse of discretion, thus We are precluded from engaging in a review of the facts found nor of the law as interpreted or applied on the merits of the case.[13] We are rather constrained by the rules for such indicia of a capricious, whimsical, or arbitrary exercise of judgment, as that which is equivalent in the eyes of the law, to lack of jurisdiction.[14]

WHEREFORE, premises considered, the instant petition is GRANTED. The December 16, 2011 and May 14, 2012 Orders of the Department of Agrarian Reform, Region VI of Iloilo City, signed by Regional Director, Alexis M. Arsenal in Adm. Case No. A-0605-1125-2011 are ANNULLED AND SET ASIDE. Adm. Case No. A-0605-1125-2011 is ORDERED DISMISSED, without prejudice to the refiling of the proper Petition for Reallocation and/or Transfer Action through Succession under PD No. 27.

SO ORDERED.

Delos Santos, J., Chairperson, and Lopez, JJ., concur.

[1] Rollo, pp. 3-23.

[2] Rollo, pp. 29-34.

[3] Rollo, pp. 65-68.

[4] Rollo, pp. 35-47.

[5] Comprehensive Agrarian Reform Law of 1998

[6] Agrarian Law Implementation Cases or DAR Administrative Order No. 03-03.

[7] Section 4 of DAR Administrative Order No. 03-03.

[8] Oldarico S. Traveno vs. Bobongon Banana Growers Multi-Purpose Cooperative, G.R. No. 164205, September 3, 2009.

[9] Agrarian Law Implementation Cases) or DAR Administrative Order No. 03-03.

[10] Theron V. Lacson v. The Hon. Executive Secretary, et al./Jaime R. Millan and Bernardo T. Viray v. The Hon. Executive Secretary, et al., G.R. No. 165399 & 165475/G.R. No. 165404 & 165489. May 30, 2011.

[11] G.R. No. 146137, June 8, 2005.

[12] German P. Zagada vs. The Civil Service Commission and Vedasto R. Oreta, G.R. No. 99302 November 27, 1992.

[13] Arnold James M. Ysidoro vs. Hon. Teresita J. Leonardo-De Castro, et.al., G.R. No. 171513/ People of the Philippines vs. First Division of the Sandiganbayan and Arnold James M. Ysidoro, G.R. No. 190963, February 6, 2012.

[14] Angelina Pahila-Garrido vs. Eliza M. Tortogo,et. al., G.R. No. 156358, August 17, 2011.

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