

**GREGORIO FERNANDEZ[1], PETITIONER, VS. JACINTO PASCUA, RESPONDENT.**

Ponente: SALAZAR-FERNANDO, J.

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**SALAZAR-FERNANDO, J.:**

Before this Court is a petition for review under Rule 43 of the Rules of Court assailing the decision[1] dated February 3, 2006 of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB Case No. 10941 [Reg. Case No. 10732-NNE-00] entitled “Gregorio Fernandez and Floro Fernandez, Petitioners-Appellants, versus Jacinto Pascua, Respondent-Appellee”, the decretal portion of which reads:

“WHEREFORE, premises considered, the appealed decision is hereby AFFIRMED IN TOTO.

SO ORDERED.”

The facts are:

On December 4, 2000, petitioner Gregorio Fernandez (Fernandez for brevity) filed before the DARAB, Talavera, Nueva Ecija a petition[2] for the “Correction of TCT No. FP 29495 and Recovery of Possession and Damages” alleging that: he and his wife are the registered owners of that parcel of land covered by Transfer Certificate of Title No. NT-51906 containing an area of 105,544 square meters; a portion thereof, about three (3) hectares, more or less, was leased to respondent Jacinto Pascua (Pascua for brevity), who later surreptitiously enlarged his landholding, such that the original area leased to him was increased by 1.5754 hectares, more or less; respondent Pascua was able to obtain title over an area of 4.5754 hectares, more or less, causing the same to be registered in his name under TCT No. EP-29495, which reflects the increase in area, from 3.0 hectares to 4.5754 hectares; respondent Pascua admitted the enlargement of his landholding when the same was brought to the attention of the Barangay Agrarian Reform Council of Barangay Mangandingay, Munoz, Nueva Ecija; he agreed to the re-survey of the land so as to conform with the Kasunduan sa Buwisan sa Sakahan but nonetheless, he refused to comply with his undertaking; the exact area of land under the actual cultivation of respondent Pascua is three (3) hectares only as reflected in the Supplemental Parcillary Mapping conducted in 1981 by the Bureau of Lands and by the then Ministry of Agrarian Reform; from 1988 to 2000, respondent Pascua had been harvesting from the encroached portion around sixty-five (65) cavans of palay per annum, or a total of seven hundred eighty (780) cavans; hence, he is thus under obligation to return 50% of the harvest from the encroached portion. In sum, petitioner Fernandez prayed for the return of the encroached portion and 50% of the harvest realized thereof by respondent Pascua.

In his Answer,[3] respondent Pascua denied the material allegations in the petition and countered that: he is in possession and in actual occupation of the subject landholding but he is cultivating only about 2.5 hectares thereof because the rest of the land is hilly and stony that nothing could be planted thereon; the area of the land is not really three (3) hectares but petitioner Fernandez always represented that the landholding occupied and possessed by him is three (3) hectares; when the said landholding was surveyed in 1980 by the Ministry of Agrarian Reform, its area was discovered to be 45,754 square meters, more or less, which was reflected in TCT No. EP 29495 and

in Emancipation Patent No. 210590 of the Land Records of Nueva Ecija; the same was entered in the Registry of Deeds of Nueva Ecija pursuant to Section 2 of PD No. 266 and Section 103 of PD No. 1529 bearing an area of 45,754 square meters; he had been in possession and occupation of the same area of the landholding since time immemorial; he is a lawful beneficiary of the subject landholding, a portion of about two (2) hectares of which cannot be cultivated, although he has been exerting efforts and spending his own money to make it agriculturally viable.

On July 17, 2001, the Provincial Adjudicator of Nueva Ecija rendered a resolution[4] dismissing the petition holding that: it cannot rule on the correction of the area of the landholding because the prayer in the petition did not seek the correction of its area covered by TCT No. EP 29495 from 45,754 sq.m. to 30,000 sq.m.; the concerned officials of the DAR who are tasked to implement agrarian reform laws and programs, to include among others, the generation and issuance of Emancipation Patents, namely, the Provincial Agrarian Reform Officer (PARO) and/or the Municipal Agrarian Reform Officer (MARO), as well as the Register of Deeds, were not impleaded as parties-respondents; the corresponding correction of the area of the landholding under TCT No. EP 29495 or its cancellation, and the eventual generation and issuance of a new one cannot be done without impleading the PARO and/or MARO and the Register of Deeds; respondent Pascua's title is the best evidence to prove his ownership over the land described therein and unless his title is declared by a competent authority to be null and void, or unless ordered corrected, he should not be disturbed of its peaceful possession and cultivation.

On appeal, the DARAB affirmed the resolution of the Provincial Adjudicator.[5] The DARAB ruled that: there was no valid ground to justify the correction of respondent Pascua's emancipation patent; petitioner Fernandez's allegation of encroachment was not supported by convincing evidence; the emancipation patent is a public document which is entitled to full faith and credit in the absence of competent evidence that its execution is tainted with defects and irregularities.

Hence, this petition for review assigning the following errors:

"I.

THE DARAB ERRED IN NOT CONSIDERING THE FORCE AND EFFECT OF THE KASUNDUAN BUWISAN SA SAKAHAN EXECUTED ON MAY 29, 1973 WHICH HAS THE FORCE AND EFFECT AS LAW BETWEEN PARTIES CONSIDERING THE SAID KASUNDUAN WAS NEVER IMPUGNED NOR REFORMED, WHEREIN THE AREA OF THE AGRICULTURAL LAND SUBJECT OF LEASE WAS FIXED AND STIPULATED TO CONTAIN AN AREA OF 3.0 HECTARES ONLY.

II.

THE DARAB ERRED IN NOT TAKING INTO CONSIDERATION THE CERTIFICATE OF LAND TRANSFER O-066736; LANDOWNER- TENANT PRODUCTION AGREEMENT; AGREEMENT OF SURVEY AMENDMENTS; SUPPLEMENTAL PARCELLARY MAP; AS WELL AS THE JUDICIAL ADMISSIONS OF JACINTO PASCUA ALL SHOWING THAT WHAT WAS LEASED TO HIM WAS ONLY TO THE EXTENT OF 3.0 HECTARES; THEREBY CLEARLY SHOWING ENCROACHMENT AND INTRUSION OVER AN AREA OF 1.5754 HECTARES; ALL OF WHICH ARE EVIDENCES CATEGORICALLY SHOWING MISTAKE IN THE ISSUANCE OF TCT NO. EP-29495.

III.

THE DARAB ERRED IN NOT APPLYING THE TOTALITY OF CASE ASSIGNMENT AS PROVIDED IN SECTION 3 RULE VIII OF THE 1994 DARAB RULES OF PROCEDURE, CONSIDERING THAT THE LAST PARAGRAPH OF THE PRAYER WHICH SAID, "OTHER RELIEF ARE LIKEWISE PRAYED" CONNOTES THAT ALL OTHER INCIDENTAL MATTERS ARE LIKEWISE SOUGHT AND PRAYED.

IV.

THE DARAB ERRED IN APPLYING THE DISPUTABLE PRESUMPTION OF REGULARITY OF THE

ISSUANCE OF TCT NO. EP-29495 IN THE LIGHT OF OVERWHELMING EVIDENCE SHOWING THAT THE ENCROACHED AND/OR INTRUDED PORTION OF 1.5754 HECTARES IS NOT COVERED BY THE LEASED AGREEMENT AND THEREFORE OVER THE SAID AREA THE EMANCIPATION PATENT AND THE TITLE ARE NULL AND VOID; HENCE, THE RECOVERY OF THE SAME BY THE LANDOWNER-APPELLANT IS PROPER, IN CONSONANCE WITH APPLICABLE LAW AND RULINGS LAID DOWN BY THE SUPREME COURT.”[6]

The petition is bereft of merit.

In *Pagtalunan vs. Tamayo*,[7] the Supreme Court stressed the significance of an emancipation patent, thus:

“Under Pres. Decree No. 266 which specifies the procedure for the registration of title to lands acquired under Pres. Decree No. 27, full compliance by the grantee with the abovementioned undertakings is required for a grant of title under the Tenant Emancipation Decree and the subsequent issuance of an emancipation patent in favor of the farmer/grantee. It is the emancipation patent which constitutes conclusive authority for the issuance of an Original Certificate of Transfer, or a Transfer Certificate of Title in the name of the grantee.”

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“Clearly, it is only after compliance with the above conditions which entitle a farmer/grantee to an emancipation patent that he acquires the vested right of absolute ownership in the landholding- a right which has become fixed and established, and is no longer open to doubt or controversy.”

In this case, the emancipation patent and the corresponding title were already issued to respondent Pascua. The same should no longer be open to doubt or controversy.

Respondent Pascua has been tilling and cultivating the subject landholding since 1973. This Court is in a quandary how such big portion of the land, about 1.5754 hectares thereof, could be surreptitiously encroached upon without the knowledge of petitioner Fernandez. Respondent Pascua’s claim that he has been tilling the same area of land ever since, therefore, finds more credence.

As between respondent Pascua’s emancipation patent and title over the land, and the pieces of evidence proffered by petitioner Fernandez, namely, the Kasunduan Buwisan sa Sakahan, Landowner-Tenant Production Agreement, Certificate of Land Transfer, Agreement of Survey Amendments and the Supplemental Parcillary Map, this Court upholds the conclusiveness of the former being the best evidence of ownership over the subject land.

All told, this Court finds no cogent reason to overturn the decision of the DARAB whose findings are given great weight, if not conclusive upon this Court, owing to their technical expertise and administrative competence to rule on such matters.

WHEREFORE, premises considered, the decision dated February 3, 2006 of the DARAB in DARAB Case No. 10941 is hereby AFFIRMED.

### **SO ORDERED.**

Tijam and Tayag, JJ., concur.

[\*] The caption and body of the petition, as well as the records before the lower court mention Floro Fernandez as a co-petitioner/co-party-plaintiff. However, Floro Fernandez never signed the initiatory pleading before the lower court nor does his signature appear in the verification and certification of non-forum shopping of the petition. It seems that only Gregorio Fernandez is interested in this case as can be gleaned from the latest Manifestation (Rollo, pp. 101-103) filed before this Court and other attached pleadings.[1] Rollo, pp. 28-35, Annex A

[2] Rollo, pp. 79-82, Annex H

[3] Rollo, pp. 85-87, Annex I

[4] Rollo, pp. 93-96, Annex K

[5] DARAB Decision dated February 3, 2006

[6] Rollo, pp. 12-13

[7] G.R. No. 54281, March 19, 1990

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