

LEONCIA DEL ROSARIO, LUZ, ALBERTO, TEOFILO, PERFECTUA, PURIFICACION, ANSELMO, MARIO, MARIA, CORNELIA, MACARIA AND CARLOS, ALL SURNAMED NICOLAS, REPRESENTED BY ATTY.-IN-FACT, CAR...

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

These are consolidated Petitions for Review assailing the

Decision[1] dated 26 June 1998 and the Resolution[2] dated 27 October 2003 of the Department of Agrarian Reform Adjudication Board affirming on appeal the cancellation of Certificate of Land Transfer Nos. 093266, 093267 and 093268; preserving the rights of Artemio, Pablo and Ciriaco, all surnamed Hermogenes, as agricultural lessees of the subject land and ordering them to pay accrued leasehold rentals; and denying the Motion for Partial Reconsideration thereof, respectively.

The factual milieus of the Petitions are strikingly similar.

Emilio Nicolas (“Emilio”) was the owner of a parcel of land containing an area of 45,851 square meters, located in Sta. Maria, Bulacan covered by Transfer Certificate of Title No. T-172205 (N)[3]. A portion of the disputed land measuring 37,500 square meters was tenanted by Artemio Hermogenes[4] pursuant to an agreement that the latter would pay leasehold rental of 50 cavans of palay per agricultural year. Artemio’s sons, Pablo[5] and Ciriaco[6] (collectively herein known as “Hermogenes family”), helped their father in cultivating the subject property. Upon Emilio’s death, the subject land was inherited by his heirs, namely— Emilio’s wife: Leoncia Del Rosario, and his children: Luz, Teofilo, Perfectua, Purificacion, Anselmo, Mario, Maria, Cornelia, Macaria and Carlos (collectively herein known as “heirs of Del Rosario[7]”).

The strife between the parties began when the Hermogenes family failed to pay the leasehold rentals in 1981 and the succeeding years thereafter despite repeated demands from the heirs of Del Rosario. Worse, the Hermogenes family was able to cause the issuance of Certificate of Land Transfer Nos. 093266, 093267 and 093268 in their names. This prompted the heirs of Del Rosario to file an action for collection of rentals, forfeiture of the Certificates of Land Transfer (CLT) and termination of the tenurial relation before the Regional Trial Court (RTC), Third Judicial Region, Malolos, Bulacan, Branch 13, docketed as Civil Case No. 8812.

The RTC in its Decision[8] dated 11 January 1988 denied the prayer for the termination of tenancy relation between the parties as well as the cancellation of the CLTs. With regard to the prayer for the payment of the leasehold rentals, the RTC opined that the failure of the Hermogenes family to pay was “not intentional or deliberate (as) they were under the impression that since CLTs were already generated in their favor, under both P.D. 816 and MAR Circular No. 6 payment of lease rental shall be terminated on the date the value of the land is established and thereafter they shall pay amortization to the Land Bank.”[9] But given that the value of the land has yet to be determined by the Land Bank, the RTC directed the Hermogenes family to pay the leasehold rentals accruing from 1983 until the determination of the value of the land and payment thereon has been made to the

landowner.[10]

The heirs of Del Rosario expected the Hermogenes family to comply with their obligation to pay the rentals as adjudged by the RTC but they hoped in vain. The Hermogenes family stubbornly refused to give a portion of their harvest as payment. The heirs of Del Rosario then sought the help of the Department of Agrarian Reform (DAR), Bulacan District, which conducted mediation proceedings between the parties and issued the Certification[11] dated 14 January 1988, quoted herein in its entirety:

“THIS IS CERTIFY that this Office has conducted mediation proceedings between landowner, EMILIO NICOLAS, and agricultural lessee/tenant, ARTEMIO HERMOGENES and his farm helper son, PABLO HERMOGENES, all of Pulong Buhangin, Sta. Maria, Bulacan, over the landowner’s complaint against the tenant for non-payment of leasehold rentals on the landholding situated at Pulong Buhangin, Sta. Maria, Bulacan, containing an area of 4.5851 hectares, covered by TCT No. T-20118, 3.7500 of which is devoted to the planting of palay, and 0.8351 hectare not planted to any agricultural crop and untenanted, since 1971 up to the current year of 1987, or a continuous period of seventeen (17) years, at fifty (50) cavans of palay per agricultural year, or a total of eight hundred fifty (850) cavans of palay, as of 1987.

Based on the mediation conducted, it was established that tenant ARTEMIO HERMOGENES failed and refused, and still fails and refuses, to pay the leasehold rentals due and owing to the landowner EMILIO NICOLAS since the year 1981 up to and including 1987, or a continuous period of seven (7) years, or a total of three hundred fifty (350) cavans of palay, notwithstanding the decision rendered in Civil Case No. 8812, RTC Malolos, Bulacan, Branch 13, on January 11, 1988.

The failure of ARTEMIO HERMOGENES to pay to the landowner the leasehold rentals for seven (7) years is deemed deliberate with intent to defraud the landowner of his share in the produce of the land. Non-payment of leasehold rentals extinguishes tenancy relations and is a legal ground for ejectment.

IT IS FURTHER CERTIFIED that subject landholding of EMILIO NICOLAS is not covered by Operation Land Transfer under PD 27 nor under LOI 474.

IT IS FURTHER CERTIFIED that subject landholding is tenanted only by ARTEMIO HERMOGENES and that his sons, PABLO HERMOGENES and CIRIACO HERMOGENES are mere farm helpers of their father with no tenancy rights over the landholding.

IT IS FINALLY CERTIFIED that CLTS 063266 (sic), 093247 (sic) & 093268 issued in the names of ARTEMIO HERMOGENES and PABLO HERMOGENES were erroneously generated and should be properly cancelled.

Sta. Maria, Bulacan, January 14, 1988.” (Emphasis supplied)

The Hermogenes family remained unperturbed by the afore-quoted findings. Thus, the heirs of Del Rosario presented their predicament before the Barangay Agrarian Reform Committee (BARC). Again, this recourse yielded no positive result as no conciliation[12] was arrived at prompting the heirs of Del Rosario to file a Complaint for Cancellation of CLT Nos. 093266, 093267 and 093268, Non-payment of Leasehold Rentals with Motion to Place Landholding Under Management and Control of Landowners, Ejectment and Damages[13] before the Provincial Agrarian Reform Adjudication Board (PARAD) of Malolos, Bulacan.

The Hermogenes family, for their part, clamored that the CLTs issued in their names must be upheld. They incessantly claimed that since the disputed property had been placed within the coverage of Operation Land Transfer, the leasehold system was legally terminated on 21 October 1972, the date of effectivity of Presidential Decree No. 27[14]. The Hermogenes family posited that this statute emancipated them as tenants freeing them from the bondage of the soil and thus, as new landowners, they were no longer obliged to pay leasehold rentals to

the heirs of Del Rosario.[15]

On 20 May 1994, the PARAD rendered its Decision[16], the dispositive portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered:

- Ordering the cancellation of Certificates of Transfer Nos. 093266, 093267 and 093268 which were erroneously issued in favor of defendants Artemio Hermogenes and Pablo Hermogenes;
- Ordering defendants (Hermogenes) to vacate subject landholding measuring an area of 4.5851 hectares and surrender to plaintiffs the peaceful possession, occupation and cultivation of subject landholding;
- Ordering defendant Ciriaco Hermogenes to vacate the landholding he unlawfully occupied and to remove/demolish the house he illegally constructed thereon;
- Ordering the defendants Artemio Hermogenes and Pablo Hermogenes jointly and severally, to pay plaintiffs the same (sic) of ONE HUNDRED EIGHTY THOUSAND PESOS (P180,000) representing accrued unpaid leasehold rentals for 12 continuous years from 1981 up to 1992, plus the leasehold rental of 50 cavans of (sic) beginning 1993 and every year thereafter, until defendants shall have been finally ordered ejected from subject landholding.

SO ORDERED.”

An appeal was interposed before the Department of Agrarian Adjudication Board (DARAB), and while this appeal was pending, the heirs of Del Rosario filed an Application for Retention under PD 27 which was granted by DAR on 12 August 1988[17].

Meanwhile, the DARAB affirmed the PARAD’s Decision insofar as it upheld the tenurial relation between the parties. However, it declared that the Hermogenes family should not be ejected from the subject property on the ground of non-payment of lease rentals. The pertinent disquisitions and disposition of the assailed Decision[18] dated 26 June 1998 provide:

“The ancillary issue to be resolved in the case at bar is whether or not the defendants-appellants may be ejected from the landholding in question. The matter of non-payment of lease rental was already passed upon in Civil Case No. 8812 by the Regional Trial Court of Bulacan, thus:

‘Considering that in this particular case there is no showing that there was already a valuation of the subject landholding and that the Land Bank has paid the landowner 10% of the amount of the value of the land, the farmers should not discontinue paying the lease rental to the plaintiff (Del Rosario) and defendants (Hermogenes) are still under obligation to pay the rental. Hence, the defendants (Hermogenes) should still pay the rental to the plaintiffs (Nicolas) since three years prior to the filing of this case in 1986 or since 1983. Defendants (Hermogenes) cannot be said to have deliberately failed to pay the leasehold rental. At any rate whatever the tenant shall have paid as rental to the landowner, the same should be credited as partial payment of the land to be transferred to the defendants (Hermogenes).’

x x x x x x x x

We agree with the earlier finding of the RTC that the defendants-appellants cannot be ejected from the landholding in question on the ground of non-payment of lease rentals.

Notwithstanding the grant of retention rights to the landowner, the relation between the parties shall remain and be governed by the agricultural leasehold relationship as mandated by the second paragraph of Section 6, RA

6657 which states:

‘The right to choose the area to be retained, which shall be compact or contiguous, shall pertain to the landowner; Provided, however, that in case the area selected for retention by the landowner is tenanted, the tenant shall have the option to choose whether to remain therein or be a beneficiary in the same or another agricultural land with similar or comparable features. In case the tenant chooses to remain in the retained area, he shall be considered a leaseholder and shall lose his right to be a beneficiary under this Act. x x x’

WHEREFORE, judgment is hereby rendered:

- Affirming the cancellation of CLT Nos. 093266, 093268 in the name of Pablo Hermogenes and CLT No. 093(2)67 in the name of Artemio Hermogenes;
- Ordering plaintiffs-appellees or their agents, representatives or persons acting in their behalf to keep the defendants-appellants in peaceful possession and cultivation of their farmholdings as agricultural lessees thereof;
- Ordering the defendants-appellants to pay the leasehold rental of fifty (50) cavans of palay or its equivalent in money based on the government support price, from 1983 up to the present; and
- Ordering the parties to comply with the terms of their leasehold agreement until modified.

SO ORDERED.” (Emphasis supplied)

In its Resolution[19] dated 27 October 2003, the DARAB denied the Motion for Partial Reconsideration and Motion to Dismiss filed by the heirs of Del Rosario and the Hermogenes family, respectively.

Unsatisfied therewith, both parties turned to Us for relief through these Petitions for Review which were consolidated on 3 October 2005[20]. The Petitions were anchored on the following issues:

SP 80697

I.

WHETHER OR NOT, THE DECISION RENDERED BY THE PUBLIC RESPONDENT HONORABLE ADJUDICATION BOARD, DAR CONCERNING THE NON-EVICTION OF PRIVATE RESPONDENTS IN VIOLATION OF EXISTING LAWS, RULES AND REGULATIONS AND JURISPRUDENCE APPLICABLE ON THE MATTER AT ISSUE.

II.

WHETHER OR NOT, THE PUBLIC RESPONDENT HO-NORABLE ADJUDICATION BOARD, DAR COMMITTED GRAVE ABUSE OF DISCRETION IN NOT ORDERING THE EVICTION OF PRIVATE RESPONDENTS FOR DELIBERATE REFUSAL TO PAY PETITIONERS LEASE RENTALS.

III.

WHETHER OR NOT, THE PUBLIC RESPONDENT HO-NORABLE ADJUDICATION BOARD, DAR COMMITTED GRAVE ABUSE OF DISCRETION IN NOT APPLYING EXISTING LAW, RULES AND REGULATIONS AND JURIS-PRUDENCE APPLICABLE IN THE ABOVE-ENTITLED CASE.

SP 80734

I.

THE RETENTION/EXEMPTION ORDER OF DAR RE-GIONAL DIRECTOR CULMINATING TO THE

INSTITUTION OF A COMPLAINT FOR CANCELLATION OF CLT NOS. 093266 AND 093267 IS AN AGRARIAN DISPUTE COG-NIZABLE BY THE DARAB AND ULTIMATELY BY THE COURT.

II.

THE REGIONAL OFFICE OF THE DAR IS LEGALLY WRONG IN ISSUING THE ORDER OF RETENTION/ EXEMPTION.

We find no reversible error committed by the DARAB in its Decision of 26 June 1998. Accordingly, the Petitions for Review are bereft of merit.

In SP 80734, the Hermogenes family insists that this controversy may be untangled only if We nullify the DAR Order[21] of 12 August 1998 which granted the heirs of Del Rosario's Application for Retention under PD 27. It must be borne in mind that the Order of 12 August 1998 confirmed the heirs of Del Rosario's right to retain the 45,851 square meters parcel of land without subjecting it to the Operation Land Transfer of Presidential Decree No. 27.

This is the first time that the Hermogenes family raised this issue and We could have altogether refused to consider this question. But lest We be accused of capriciously skirting away from a substantial issue of the case, We plausibly confront the same and finally put finis to this controversy.

Pertinent portions of the contentious 12 August 1998 Order[22] read:

"In support of his Application for retention, the applicants hereof submitted /forwarded the following documentary evidence, as follows:

- Application for retention;
- Joint affidavit of total aggregate landholdings;
- Tax declaration;
- Investigation report;
- Decision from DARAB dated May 24, 1994;
- Salaysay galing sa Punong Barangay;
- Petition filed by the late Emilio Nicolas, Teodoro Evangelista dated August 12, 1985 duly notarized;
- Small landowner's application for retention and affidavit;
- Evaluation sheet;
- Certification from the Provincial Assessor and Municipal Assessor;

- Notice of Order from the DARAB Central Office dated April 7, 1995;
- Xerox copy of TCT No. T-172205 (m);
- Xerox copy of TCT No. 20118;
- Xerox copy of OCT-0-2406;
- Subd. Plan and Sketch Plan;

Under Administrative Order No. 04, Series of 1991, landowners who filed their Application for retention before 27 August 1985 (as in the case at bar) deadline set by Administrative Order No. 01, Series of 1985 may retain not more than seven hectares of their landholdings covered by PD 27 regardless of whether or not they complied with LOI Nos. 41, 45 and 52.

Thus, after a careful perusal of all the documents submitted as well as the favorable recommendations of the MARO and PARO, this Application is found to be meritorious and not contrary to the laws and other applicable agrarian implementing rules and regulations.

WHEREFORE, premises considered, an ORDER is hereby issued:

- GRANTING the Application for retention under PD 27 filed by the heirs of Emilio Nicolas and Leoncia del Rosario of not more than seven (7) hectares involving their landholding embraced under TCT No. T-172205 and OCT No. 2406 located at Pulong Buhangin, Sta. Maria, Bulacan;
- ACQUIRING excess area within the coverage of Operation Land Transfer pursuant to PD 27 and to distribute the same to qualified beneficiaries in accordance with DAR policies, rules and regulations and without prejudice to the outcome of the case pending before the DARAB regarding the status of the occupants therein;
- ORDERING the petitioner to cause the segregation of the retained areas at their own expense and to submit to this Office and the MARO concerned a copy of the segregation plan within thirty (30) days from approval thereof.

SO ORDERED.”

We are not prepared to strike down the legality of the afore-quoted 12 August 1998 Order based merely on the weak stance of the Hermogenes family that the heirs of Del Rosario have no capacity to file the Application for Retention under PD 27 given that the disputed property was owned by Emilio Nicolas. We need not belabor the rule that when Emilio Nicolas died, the subject land passed on to the heirs of Del Rosario, his compulsory heirs,[23] giving the latter the right as well as the personality to file the Application for Retention under PD 27 before the proper agrarian agency.

Without doubt, the heirs of Del Rosario are entitled under Presidential Decree No. 27 to retention of seven (7) hectares of agricultural land[24]. Even if We consider the retention limit of five (5) hectares under Republic Act No. 6657[25], still, the Order of 12 August 1998 must be sustained. Neither an agrarian agency nor a court of justice could deprive the landowners of their right of retention which the law has unqualifiedly reserved for them.

Considering, thus, that the subject parcel of land consists only of 45,851 square meters, which is within the retention limit, the heirs of Del Rosario may exercise the right of retention over the entire landholding. As conscientiously pointed out by *Danan v. Court of Appeals*[26]:

“The right of retention is a constitutionally guaranteed right, which is subject to qualification by the legislature. It serves to mitigate the effects of compulsory land acquisition by balancing the rights of the landowner and the tenant and by implementing the doctrine that social justice was not meant to perpetrate an injustice against the landowner. A retained area, as its name denotes, is land which is not supposed to anymore leave the landowner’s dominion, thus sparing the government from the inconvenience of taking land only to return it to the landowner afterwards, which would be a pointless process. For as long as the area to be retained is compact or contiguous and does not exceed the retention ceiling..., a landowner’s choice of the area to be retained must prevail.” (Emphasis supplied)[27]

With this pronouncement, there lies no reason to uphold the validity of the Certificates of Land Transfer issued in the names of the Hermogenes family. Jurisprudence has taught Us that beneficiaries are issued CLTs to entitle them to possess lands. Thereafter, they are issued Emancipation Patents (EPs) after compliance with all necessary conditions. The issuance of EP to beneficiaries, however, does not absolutely bar the land-owner from retaining the area covered thereby.[28]

As borne by the records, the heirs of Del Rosario owned only a total of 45,851 square meters, which is below the retention limit under Presidential Decree No. 27 and Republic Act No. 6657. Consequently, they may keep the entire covered landholding as its aggregate size does not exceed the retention limit provided for by law. Their land will not be covered at all by the Operation Land Transfer Program although all requisites for the coverage are present.[29] The CLTs of the Hermogenes family cannot operate to divest the heirs of Del Rosario of the right to retain the subject property which was merely 45,851 square meters in area. The CLTs are not absolute evidence of the Hermogenes family’s ownership over the subject land, and consequently do not bar the finding that their issuance is void from inception.[30]

Verily, the DARAB in its 26 June 1998 Decision correctly relied on Administrative Order No. 2, series of 1994 which reads:

“Emancipation patents or certificates of land ownership award issued to agrarian reform beneficiaries may be corrected and cancelled for violations of agrarian laws, rules and regulations. This includes cases of lands which are found to be exempted/ excluded from P.D. No. 27/EO No. 228 of CARP coverage, or part of the landowner’s retained area.”[31] (Emphasis supplied)

Having so ruled, a considerable issue raised in SP No. 80697 necessarily comes to fore - Is it proper to eject the Hermogenes family from the subject landholding?

We answer in the negative. There is no reason to eject the Hermogenes family with respect to the area of 45,851 square meters which the heirs of Del Rosario has the right to retain. On this score, We defer to the ruling of *Mejia v. Gabayan*[32] which cited the earlier pronouncements of *Paris v. Alfeche*[33]:

“Section 22 of RA 6657 expressly states that “actual tenant-tillers in the landholding shall not be ejected or removed therefrom.” Furthermore, there is no reason for ejecting the tillers with respect to the area of five hectares, which petitioner may choose to retain. Section 6 of RA 6657 further states:

The right to choose the area to be retained, which shall be compact or contiguous, shall pertain to the landowner; Provided, however, That in case the area selected for retention by the landowner is tenanted, the tenant shall have the option to choose whether to remain therein or be a beneficiary in the same or another agricultural land with similar or comparable features. In case the tenant chooses to remain in the retained area, he shall be considered a lease holder and shall lose his right to be a beneficiary under this Act. In case the

tenant chooses to be a beneficiary in another agricultural land, he loses his right as a lease holder to the land retained by the landowner. The tenant must exercise his option within a period of one (1) year from the time the landowner manifests his choice of the area for retention.

“In all cases, the security of tenure of the farmers or farm workers on the land prior to the approval of this Act shall be respected.”

The current provision on retention removes the necessity, present under PD 27, of ejecting actual tillers. Under the current law, landowners who do not personally cultivate their lands are no longer required to do so in order to qualify for the retention of an area not exceeding five hectares. Instead, they are now required to maintain the actual tiller of the area retained should the latter choose to remain therein.” (Emphasis supplied)

Clearly, despite the cancellation of the CLTs issued to the Hermogenes family, they should remain as tenants of the disputed land. As agricultural lessees, it is incumbent upon the Hermogenes family to pay the leasehold rentals. It has been proved with legal certainty that the Hermogenes family has neglected to share with the heirs of Del Rosario the harvest of the subject land. We cannot countenance such failure for to do so would unjustly enrich the Hermogenes family.

Certainly, We discern no reason to depart from the well-substantiated pronouncements of the DARAB in the assailed 26 June 1998 Decision. This agrarian agency possesses the necessary expertise to rule on the matter, and where there is no showing that there was fraud, collusion, arbitrariness, illegality, imposition or mistake in rendering the questioned decision, such administrative decision is entitled to great weight and respect and will not be interfered with.[34]

WHEREFORE, the Petitions for Review are DISMISSED. The 26 June 1998 Decision and the 27 October 2003 Resolution of the Department of Agrarian Reform Adjudication Board are hereby AFFIRMED.

SO ORDERED.

Buzon, and Maambong, JJ., concur.

[1] SP No. 80697, Rollo pp. 75-84; SP 80734, Rollo, pp. 106-115.

[2] SP No. 80697, Rollo, pp. 101-105; SP 80734, Rollo, pp. 128-132.

[3] SP No. 80734; Rollo, p. 27.

[4] Private respondent in SP No. 80697.

[5] Private respondents in SP No. 80697 and petitioners in SP No. 80734.

[6] Ibid.

[7] Petitioners in SP No. 80697 and private respondents in SP No. 80734. The heirs are actually the wife and children of Emilio Nicolas, and should have been called the “heirs of Nicolas.” However, for purposes of this Petition and for clarity, We deem it necessary to call the heirs as “heirs of del Rosario” because SP 80697 is entitled “Del Rosario, et. al v. Hon. Adjudication Board, et. al.”

[8] SP No. 80734, Rollo, pp. 121-125.

[9] Page 4 of the Decision dated 11 January 1988; SP No. 80734, Rollo, p. 124.

[10] See dispositive portion of the Decision dated 11 January 1988 at SP No. 80734, Rollo, p. 125.

[11] SP No. 80734, Rollo, p. 28.

[12] See Pagpapatunay dated 10 March 1993, SP No. 80734; Rollo, p. 29.

[13] SP No. 80697, Rollo, pp. 22-32; SP No. 80734, Rollo, pp. 11-20.

[14] Entitled DECREETING THE EMANCIPATION OF TENANTS FROM THE BONDAGE OF THE SOIL, TRANSFERRING TO THEM THE OWNERSHIP OF THE LAND THEY TILL AND PROVIDING THE INSTRUMENTS AND MECHANISM THEREFOR, which took effect on 21 October 1972.

[15] SP No. 80734, Position Paper and/or Motion to Dismiss dated 30 March 1994; Rollo, pp. 32-57.

[16] SP No. 80697, Rollo, pp. 119-135; SP No. 80734, Rollo, pp. 88-104.

[17] SP No. 80697, Rollo, pp. 71-73; SP No. 80734, Rollo, pp. 133-135.

[18] SP No. 80697, Rollo, pp. 75-84; SP No. 80734, Rollo, pp. 106-115.

[19] SP No. 80734, Rollo, pp. 128-132; SP No. 80697, Rollo, pp. 101-105.

[20] SP No. 80734, Rollo, pp. 197-198.

[21] SP No. 80697, Rollo, pp. 71-73; SP No. 80734, Rollo, pp. 133-135.

[22] SP No. 80697, Rollo, pp. 72-73; SP No. 80734, Rollo, pp. 134-135.

[23] Article 777, New Civil Code.

[24] “In all cases, the landowner may retain an area of not more than seven (7) hectares if such landowner is cultivating such area or will now cultivate it.”

[25] Sec. 6 of Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1998: Retention Limits.— Except as otherwise provided in this Act, no person may own or retain, directly or indirectly, any public or private agricultural land, the size of which shall vary according to factors governing a viable family-sized farm, such as commodity produced, terrain, infrastructure, and soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder, but in no case shall retention by the landowner exceed five (5) hectares. x x x” (Emphasis supplied)

[26] 474 SCRA 113 (2005).

[27] *Danan v. Court of Appeals*, 474 SCRA 113, 128 (2005).

[28] See *Daez v. Court of Appeals*, 325 SCRA 856, 866 (2000).

[29] See *Danan v. Court of Appeals*, 474 SCRA 113, 128 (2005).

[30] See *Bacaling v. Muya*, 380 SCRA 714, 737 (2002).

[31] Page 8 of the Decision; SP 80734, Rollo, p. 113. See also *Vda. de Dela Cruz v. Abille*, 352 SCRA 691, 700 (2001).

[32] 455 SCRA 499, 521-522 (2005)

[33] 364 SCRA 110, 123-124 (2001).

[34] See *Vda. de Dela Cruz v. Abille*, 352 SCRA 691, 700 (2001).

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