

ANGEL BALTAZAR, PETITIONER, VS. COURT OF APPEALS (SEVENTH DIVISION) AND FLORA L. ESGUERRA, RESPONDENTS.

G.R. No. L-40191. May 27, 1981

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

By this petition, Angel Baltazar seeks a review of the Decision of respondent Court of Appeals,[1] promulgated on 22 October 1974 (in CA-G.R. No. 46454-R, "Flora L. Esguerra vs. Angel Baltazar") dismissing the ejectment suit against a tenant filed by a landowner who wanted to convert her land into a residential sub-division, but denying to the tenant the right of re-demption, premised upon the retroactive application of Presidential Decrees Nos. 27 and 316.

The antecedents of the case disclose that since 1912, petitioner Angel Baltazar was the share tenant over two (2) parcels of riceland (Lots Nos. 1242 and 6) covered by Transfer Certificates of Title Nos. 74177 and 74161, with corresponding areas of 19,841 and 14,984 square meters, respectively, both located at barrio Salacot, San Miguel, Bulacan. The front portion of Lot No. 1242, stretching along the National Highway, became a residential area since the Japanese Occupation. Petitioner, however, continued to possess as tenant, the rear and greater portion of this lot and Lot No. 6. He became an agricultural lessee during the agri-cultural year 1968-69.

The two lots were originally owned by Emiliano Tecson, who transferred ownership to Salud B. Calderon before the Japanese Occupation. On 6 March 1969, Salud Calderon sold the two parcels of land to private respondent Flora L. Esguerra for P4,608.32. As the new owner, private respondent caused the cancellation of the former titles and the issuance in her name of Transfer Certificate of Title No. 108665 in lieu of TCT No. 74161, and Transfer Certificate of Title No. 108666 to replace TCT No. 74177. Six months later, or on 26 September 1969, private respondent caused the subdivision of Lot No. 1242 covered by TCT No. 108666 into ten (10) lots comprising Lots Nos. 1242-A to 1242-J and the issuance of TCT Nos. 117623 to 117632, all derived from TCT No. 108666. Lots 1242-A to 1242-I, with approximately 300 square meters each, occupy the portion of the land-holding fronting the national road which had since become a residential area and for which TCT Nos. 117623 to 117631 were issued. The tenth lot, Lot No. 1242-J, with an area of 17,121 square meters, covered by TCT No. 117632, corresponds to the rear portion of the land-holdings over which petitioner continued with his possession and tenancy.

To pursue her plan to convert the entire landholding into residential lots, private respondent instituted on 24 December 1969 a Complaint for Ejectment against petitioner before the Court of Agrarian Relations, 5th Regional District, Branch I-A, Baliuag, Bulacan. The Complaint substantially alleged that the portions being tenanted by petitioner (defendant therein) particularly, Lot 1242-J covered by TCT No. 117632, with an area of 17,121 square meters (derived from TCT No. 108666), and the lot covered by TCT No. 108665 with an area of 14,984 square meters, or a combined area of approximately 3.2 hectares, are all suited for subdivision into residential lots, and thus sought the ejectment of petitioner from the entire landholdings tenanted by him. Lots Nos. 1242-A to 1242-I, or the residential lots, were already excluded from the Complaint.

Answering, petitioner interposed the special and affirmative defenses that the two (2) parcels of land in question were sold by the former landowner, Salud B. Calderon, to private respondent without complying with the notice requirement of Section 11 of Republic Act No. 3844 (the Agricultural Land Reform Code); that these lots were registered in violation of Section 13 of the same law, which requires the vendor, as a pre-requisite to registration, to execute an affidavit that he has given written notice pursuant to Section 11 thereof, or that the land is not cultivated by an agricultural lessee; that private respondent filed this action without giving petitioner the required notice under Section 36 of the same Code; that the landholdings in question are not suitable for homesite, and that the attempt to dispossess him was in bad faith.

By way of counterclaim, petitioner tendered and deposited with the Court of Agrarian Relations the sum of P5,000.00 to cover the purchase price of P4,608.32, in the exercise of his right of redemption under Section 12 of the Agrarian Code.

Pending final determination of the case, petitioner filed on 26 January 1970 a "Motion for an Interlocutory Order", followed about two weeks later with an Amended Verified Motion, to direct private respondent to maintain petitioner in the lawful possession and cultivation of the landholdings in question.

Upon hearing, petitioner testified and declared, inter alia, that on 27 February 1970 private respondent had begun to bulldoze the land resulting in the removal of the dikes and the destruction of rice paddies; that roads had actually been constructed on the subject land, with some gravel and sand already delivered; and that monuments were being planted on the land. Petitioner also presented in Court the Resolution of the Municipal Council of San Miguel, Bulacan, dated 20 February 1970 (Exhibit "A"), denying private respondent's application for conversion of the subject land into a subdivision on the ground that the land was under the possession of a tenant and there was a pending suit before the Court of Agrarian Relations wherein said tenant was a party.

The lower Court issued the interlocutory Order on 5 March 1970 enjoining private respondent from committing acts of dispossession against petitioner, or otherwise from disturbing him in his possession and cultivation of these landholdings pending the final determination of the case and until further orders.

After trial on the merits, the Court a quo rendered its Decision on 20 August 1970, upholding petitioner's right to exercise redemption but excluding the lots considered to have become residential land. The dispositive portion of the judgment reads:

"WHEREFORE, judgment is hereby rendered:

"(1) Dismissing plaintiff's complaint;

"(2) Making the interlocutory order of this Court dated March 5, 1970, permanent in character. The bond of P5,000.00 filed by defendant as a condition for the issuance of the said Order is hereby cancelled and ordered returned to him;

"(3) Ordering plaintiff to convey unto defendant for the consideration of P4,608.32 which amount is already covered by the sum of P5,000.00 deposited with the Court, the real properties described in Transfer Certificates of Title Nos. T-108665 and T-117632 of the Register of Deeds for the province of Bulacan;

"(4) Ordering the Clerk of this Court to return to defendant the excess amount of P391.68 from the said deposit of P5,000.00 made by defendant on January 29, 1970, upon proper receipt; and

"(5) For the purpose of implementing this decision the Clerk of this Court is hereby authorized, at the proper time, to detach from the records of this case Official Receipt No. H-8625119 dated January 29, 1970, de-nominated as Exhibit '10'.

"The parties' other claims or counterclaims are hereby dismissed.

"No pronouncement as to costs."

The Motion for Intervention filed on 4 September 1970 by private respondent's husband, Alejandro Esguerra, and the Motion dated 16 September 1970 to allow inter-vention filed by private respondent herself, were both denied.

Upon elevation of the case to respondent Court of Appeals on 20 May 1971, docketed therein as CA-G.R. No. 46454-R, private respondent stressed that the lower Court committed three errors, viz.: (1) in denying Alejandro Esguerra's Motion to Intervene; (2) in or-dering private respondent to convey the lands in ques-tion to the petitioner, contrary to Section 14 of Republic Act No. 3844; and (3) in issuing with grave abuse of discretion the Order of 5 March 1970 restrain-ing private respondent and her agents from carrying out her conversion plans.

In disposing of the appeal, respondent Court observed that the issues of fact and law can no longer be resolved in accordance with the law then in force, and on the basis of the recorded evidence in view of the status quo provisions of Presidential Decrees Nos. 27 and 316 and their implementing Rules and Regulations. Premised on this theory, respondent Appellate Court promulgated its Decision on 22 October 1974, with the following decretal portion:

"WHEREFORE, the instant suit for ejectment is DISMISSED, and it is hereby ordered that the redemption money deposited by defendant-appellee with the court below be returned to him. In the meantime, pending the promulgation of the rules and regula-tions implementing Presidential Decree No. 27, the plaintiff and the defend-ant should maintain the status quo, that is, the leasehold relationship as landholder and agricultural lessee, the latter to continue to pay the plaintiff lease rentals under the leasehold arrangement existing as of October 21, 1972. No costs.

SO ORDERED."

The Motion for Reconsideration, praying that petitioner be allowed to exercise the right of redemption was denied by respondent Court in its Resolution of 17 January 1975, but at the same time, it ordered the denial to be

"without prejudice to the right of the defendant to exercise the right of redemption, should the National Development Authority, to be created by his Excellency, find that the land now in question is not suitable for residential, commercial, industrial or non--agricultural purposes".

With leave of Court, petitioner filed on 6 February 1975 a second Motion for Reconsideration, which met a similar fate or 18 February 1975.

Following the denial, the instant Petition for Review on Certiorari was filed with us on 24 February 1975. Petitioner claims that respondent Court erred

"I. x x x in giving retroactive effect to Presidential Decrees Nos. 27 and 316 thereby avoid-ing the principal issues raised before it; and

II. x x x in not affirming the lower Court's finding that peti-tioner had properly exercised his right of redemption under the Agricultural Land Reform Code, Republic Act No. 3844."

We gave the Petition due course on 13 May 1975, after reconsidering our initial denial on 5 March 1975. After both parties had filed their respective memoranda, the case was submitted for decision on 5 August 1976.

About a year later, or on 10 August 1977, private respondent filed an Omnibus Motion requesting us to order the petitioner herein, who, allegedly, has been unlawfully withholding the lease rentals due the private respondent, to deliver or deposit in a reputable bonded warehouse the lease rentals for the period commencing 1969 up to 1977,

inclusive, corresponding to the total yearly harvest of 510 cavans, or the total equivalent amount of P30,600.00. Two similar Motions were successively filed by private respondent on 10 December 1977 and 30 May 1980.

Required to comment thereon, petitioner strongly opposed the grant of these motions contending that it would be equivalent to:

x x x x

"b. Placing into the hands of one who does not at the moment need it most, materials so vital to survival and of a volume or of such value that Petitioner can-not at the snap of the finger simply produce without calling upon a miracle to happen, or without asking for some time during which he shall have to work himself to the bone produc-ing what the Respondent would want to require, and at the age of 88 years; placing into the hands of one who could well afford to wait for more than ten (10) years now without feeling the absence of any 'rentals' from Petitioner because of her many and varied sources of income;

c. Overlooking the problems of recovery of any rental paid, should Petitioner, because of the merits of his case, be favoured by a Decision of this Honorable Supreme Court; and

d. Setting aside the Government's program of social justice which puts a premium upon the uplift-ment of the condition of the poor."[2]

We deferred action on those Motions until decision on the merits.

The first issue to be resolved is the propriety of respondent Court's ruling according retroactive application to Presidential Decrees Nos. 27 and 316 and their implementing circulars, to a case pending before it long before these decrees took effect.

To obtain the proper perspective, the recital of pertinent dates is apropos. The Code of Agrarian Reforms (RA 3844) took effect on August 22, 1963. The Ejectment Case was instituted before the Court of Agrarian Relations on 24 December 1969, which Court rendered its Decision on 20 August 1970. Republic Act No. 6389, which amended the Code of Agrarian Reforms, was approved on 10 September 1971. Presidential Decree No. 27, decreeing the emancipation of tenants from the bondage of the soil and transferring to them ownership of the land they till, was promulgated on 21 October 1972. Presidential Decree No. 316 prohibiting the ejectment of tenant-tillers from farmholdings devoted to rice and corn pending promulgation of rules and regulations im-plementing PD No. 27, and requiring the maintenance of the status quo in relations between tenant farmers and landowners, was issued on 22 October 1973. The Court of Appeals rendered the judgment under review on 22 October 1974.

It will thus be seen that the action was instituted on 24 December 1969, long before Presidential Decrees Nos. 27 and 316 took effect on 21 October 1972 and 22 October 1973, respectively. Decision was rendered by the trial Court on 20 August 1970, also prior to the effectivity of said decrees. The case had been pend-ing before the Court of Appeals since 1970, again prior to the promulgation of said Decrees, although its Decision was rendered after their enactment.

It is a fundamental postulate in statutory construction that "laws shall have no retroactive effect, unless the contrary is provided." [3] This rule has been consistently applied in a long line of cases wherein we categorically pronounced that a statute operates prospectively and never retroactive-ly unless the legislative intent to the contrary is made manifest either by express terms of the statute or by necessary implication. [4] Similarly, in the case of *Espiritu vs. Cipriano*, [5] we declared:

"Well-settled is the principle that while the Legislature has the power to pass retroactive laws which do not impair the obligation of contracts, or affect injuriously vest-ed rights, it is equally true that statutes are not to

be construed as intended to have a retroactive effect so as to affect pending proceedings, unless such intent is expressly declared or clearly and necessarily implied from the language of the enactment" (emphasis supplied).

There being no express nor clearly implied authorisation embodied in PD Nos. 27 and 316 allowing retro-spective application, prospective construction is called for.

More recent rulings of this Tribunal have likewise ruled that Presidential Decrees Nos. 27 and 316 cannot be applied retroactively. In *Castro, et al., vs. Court of Appeals, et al.*, G.R. No. L-44727, September 11, 1980, this Court, speaking through Mr. Justice Felix V. Makasiar, held:

"Moreover, petitioners have made the fatal error of invoking the provisions of Presidential Decrees Nos. 27, 316 and 946; for, this Court has already ruled that said decrees cannot be applied retroactively and that they can only apply to bona fide tenants."

In *Cabatan vs. Court of Appeals, et als.*, 95 SCRA 323, 345 (1980), Mr. Justice Guillermo Santos wrote the opinion for the Court thus:

"Further, on petitioner's contention that the cases should have been dismissed for lack of jurisdiction - on the ground of the absence of a certification of triability by the Ministry of Agrarian Reform - the records show that the cases were initiated in the CAR in 1971. Pres. Decrees Nos. 316 and 583 invoked by the petitioners in assailing the CAR's exercise of jurisdiction over the cases and deciding the same were promulgated only on October 21, 1972 and October 22, 1973, respectively. It is a fundamental postulate that once a court has taken jurisdiction over a case, its authority can not be affected adversely by a subsequent statute prescribing a precondition before the Court may take cognizance of the case."

In the earlier case of *Jacinto vs. Court of Appeals, et al.*, 87 SCRA 263, 274 (1978), penned by Mr. Justice Felix Q. Antonio, also cited in the *Castro* case, *supra*, we ruled:

"Neither can We find merit in petitioner's claims that with the advent of Presidential Decree No. 27, he has become the owner of the land. Firstly, said decree applies only in favor of bona fide tenants. It can-not be denied, however, that at the time of the promulgation of Presidential Decree No. 27 (October 21, 1972), the Appellate Court has already its judgment finding that the tenancy relationship between petitioner and private respondent had been extinguished. Secondly, the decree cannot operate retroactively in favor of petitioner who had surrendered one-half of the land in July 1966 and, by virtue of a Writ of Preliminary Mandatory Injunction issued by the Court of Agrarian Relations, was dispossessed of the other half in February 1967. x x x x x"

And in *Padasas vs. Court of Appeals, et al.*,^[6] referring to the retroactivity of the Agricultural Land Reform Code, also a social legislation aimed at making small farmers more independent, self-reliant and re-sponsible citizens, with Mr. Justice Juvenal K. Guerrero as ponente, this Court succinctly said:

"The Agricultural Land Reform Code (Rep. Act 3844) was enacted and took effect on August 8, 1963. This law must be enforced prospectively and not retroactively and, therefore, whatever rights created, granted or recognized therein such as the right of redemption accrued upon the enactment of this legislation and may be exercised thereafter in appropriate cases."

But even if applied retroactively, PD Nos. 27 and 316 will find no application considering that ejectment proceedings herein were not filed to harass the tenant but to convert the land into a subdivision, a reason perfectly valid under the laws then in force. Besides, under the facts of the case, to maintain the status quo or the leasehold relationship, as ruled by respondent Court of Appeals, would prove more prejudicial to petitioner, because by allowing him the right of redemption he becomes an independent owner of the land, whereas, if the status quo is maintained he becomes a perpetual agricultural lessee bound to pay rentals to the land-owner. In other words, the fundamental policy objectives of our agrarian laws, inclusive of PD 27 and 316, are achieved and upheld by

according to petitioner the right to redeem, a vested right which he had acquired under the Code of Agrarian Reforms and of which he cannot be deprived by subsequent legislation.[7]

Accordingly, contrary to its opinion, there would have been no impediment on the part of respondent Court to resolve once and for all the issues on the merits of the case brought before it on the basis of the laws or statutes then in force without need of awaiting the promulgation of the rules and regulations implementing presidential Decrees Nos. 27 and 316.

Which brings us to the second issue. Reverting to the recital of dates earlier given, it is again clear that it is Republic Act No. 3844, which took effect on 22 August 1963, prior to its amendment by Republic Act No. 6839 on 10 September 1971, that should govern the relationship between the contending parties and which should determine whether or not the trial Court's findings that petitioner had properly exercised his right of redemption is correct.

Section 11 of the original text of the Agrarian Code provided:

"Sec. 11. Lessees' Right of Pre-emption. - In case the agricultural lessor decides to sell the landholding, the agricultural lessee shall have the preferential right to buy the same under reasonable terms and conditions; x x x The right of pre-emption under this Section may be exercised within ninety days from notice in writing, which shall be served by the owner on all lessees affected."

We find as established that the subject landholdings were sold by the former owner, Salud B. Calderon, to private respondent without complying with the notice requirement set forth in the provision just quoted. Neither was the Affidavit regarding written notice re-quired of the vendor prior to registration complied with.

"Sec. 13. Affidavit Required in Sale of Land Subject to Right of Pre-emption. - No deed of sale of agricultural land under cultivation by an agricultural lessee or lessees shall be recorded in the Registry of Property unless accompanied by an affidavit of the vendor that he has given the written notice required in Section eleven of this Chapter or that the land is not worked by an agricultural lessee."

Private respondent herself failed to give the required notice under section 36 (1) of the same Code prior to the filing of ejectment proceedings.

"Sec. 36. Possession of Landholding; Exceptions. - Notwithstanding any agreement as to the period or future surrender of the land, an agricultural lessee shall continue in the enjoyment and possession of his landholding except when his dispossession has been authorized by the Court in a judgment that is final and executory if after due hearing it is shown that:

(1) The agricultural lessor-owner or a member of his immediate family will personally cultivate the landholding or will convert the landholding, if suitably located, into residential, factory, hospital or school site or other useful non-agricultural purposes: Provided, That the agricultural lessee shall be entitled to disturbance compensation equivalent to five years rental on his landholding in addition to his rights under Sections twenty-five and thirty-four, except when the land owned and leased by the agricultural lessor is not more than five hectares, in which case instead of disturbance compensation the lessee may be entitled to an advanced notice of at least one agricultural year before ejectment proceedings are filed against him: Provided, further, That should the landholder not cultivate the land himself for three years or fail to substantially carry out such conversion within one year after the dispossession of the tenant, it shall be presumed that he acted in bad faith and the tenant shall have the right to demand possession of the land and recover damages for any loss incurred by him because of said dispossession;" (Emphasis supplied)

Considering that petitioner could not exercise his right of pre-emption for lack of notice and the sale was consummated, he must be held to be entitled to the lawful exercise of his right of redemption allowed under

Section 12 of the same Code, which in its original text, read:

"Sec. 12. Lessee's Right of Redemption. - In case the landholding is sold to a third person without the knowledge of the agricultural lessee, the latter shall have the right to redeem the same at a reasonable price and consideration: Provided, That the entire landholding sold must be redeemed: x x x The right of redemption under this Section may be exercised with-in two years from the registration of the sale, and shall have priority over any other right of legal redemption."

The exercise of the right of redemption to be valid must be in accordance with law. The timely exercise of the legal redemption right requires either tender of the price or valid consignment thereof within the prescribed redemption period of two (2) years (180 days under the new law, from notice in writing served by the vendee on all lessees and the Department of Agrarian Reforms) from the registration of the sale.[8]

Absent any written notice of sale served on petitioner, upon the registration of the sale of the landholdings in question on 10 March 1969, petitioner's right to redeem ripened on said date. When petitioner filed on 29 January 1970 his Answer to the Complaint with Counterclaim for redemption, simultaneously, he deposited in Court the amount of P5,000.00 covering the full purchase price of P4,608.32 paid by the private respondent to the former owner of the subject landholdings. Thus, petitioner had seasonably exercised his redemption right and had fully complied with all the requirements to entitle him to redeem the landholdings sold to private respondent.

In her attempt to defeat petitioner's right of redemption, private respondent invoked the provisions of section 14 of the Code of Agrarian Reforms which originally provided as follows:

"Sec. 14. Right of Pre-emption and Redemption Not Applicable to Land to be Converted into Residential, Industrial and Similar Purposes. - The right of pre-emption and redemption granted under Sections eleven and twelve of this Chapter cannot be exercised over landholdings suitably located which the owner bought or holds for conversion into residential, commercial, industrial or other similar non-agricultural purposes: Provided, however, That the conversion be in good faith and is substantially carried out within one year from the date of sale. Should the owner fail to comply with the above condition, the agricultural lessee shall have the right to repurchase under reasonable terms and conditions said landholding from said owner within one year after the aforementioned period for conversion has expired: Provided, however, That the tenure of one year shall cease to run from the time the agricultural lessee petitions the Land Authority to acquire the land under the provisions of paragraph 11 of Section fifty-one."

Parenthetically, section 14 above quoted has been repealed by section 3 of Republic Act No. 6389 approved on 10 September 1971.

Harmonizing the foregoing provision together with section 36, supra, even if a landowner desires to convert under section 14, a lessee possesses the right to be secured in his tenure until a just cause for his dispossession is proved and his ejectment is authorized by the Court. The right of a lessee to pre-empt or redeem a landholding cannot be exercised if the owner bought or holds the land for residential purposes. However, the limitation to the lessee's right to pre-empt or redeem is conditioned upon the fulfillment by the landowner of the following requisites: (1) that the property is suitably located; (2) that the conversion be in good faith; and (3) that the conversion is substantially carried out within one year from the date of sale.[9] These conditions must concur, other-wise, the land is subject to redemption by a tenant.

The trial Court found that the foregoing requisites had not been fulfilled by private respondent. The latter had not proven suitability. Petitioner was admittedly the agricultural lessee of the lands from which he was being sought to be ejected. Private respondent had no approved plan of subdivision. She did not have the approval of the proper authorities to convert the properties into a subdivision, nor had the construction been readied.[10] The trial Court also found that there was some measure of bad faith on the part of private respondent in seeking the dispossession

of petitioner, and that no substantial conversion had been undertaken by private respondent. In the words of the trial Court:

"Plaintiff filed this action for dispossession of defendant on the ground of conversion of the properties in question into a subdivision on December 24, 1969. At this time, the landholding in question was still agricultural riceland and defendant was in possession thereof in the concept of agricultural lessee. At the time also, it appears that plaintiff had no approved plan of subdivision, she did not have the approval of the Municipal Council of San Miguel, Bulacan to convert these properties into a subdivision and the construction had not even been readied. It was the ninth month of her ownership of the landholdings in question and barely three months from the expiry date of the one-year period within which she had to convert the land into a subdivision in accordance with Sec. 14, Republic Act No. 3844. In spite of the lack of plans and absence of approval of authorities concerned and during the pendency of this case, plaintiff on February 27, 1970 caused the bulldozing of defendant's landholdings, the construction of roads and gutters and the filling of portions of the land with sand. All these facts show that there was no manifest intention on the part of plaintiff to seriously convert the landholdings in question into a subdivision until she was virtually forced to do so when defendant exercised his right to redeem the properties through his counterclaim and the Municipal Council of San Miguel, Bulacan, disapproved her application for conversion. And it may be added, plaintiff's aborted and vain conversion of the land beginning February 27, 1969 was an attempt to beat the deadline set by law within which she had to convert the land. Plaintiff's pretension that the construction had to be rushed because of the need for the access road to the new parish church of Salacot located in the property at the rear of the landholdings in question cannot be given credence because there is no satisfactory evidence to show that in fact a parish church is existing or at least under construction and that plaintiff had actually donated the access road to the parish. Besides, we find it strange that after donating the road bed plaintiff at her own expense should undertake the construction of the road itself and in the process transform the ricelands in question into a residential subdivision. The foregoing facts also reveal some measure of bad faith on the part of plaintiff in seeking dispossession of defendant." [11]

We find no reason to disturb the aforequoted findings. They are supported by substantial evidence and are well-nigh conclusive on an appellate Tribunal. [12]

Under the circumstances, the right of redemption by petitioner must be sustained. Specially considering that the rights of pre-emption and redemption were the means prescribed by the Code of Agrarian Reforms to implement the declared policy of the State to establish ownership-cultivatorship and to promote the upliftment of the dignity of the small farmers free from pernicious institutional restraints and practices. Furthermore, it is the objective of the agrarian law to inculcate in every tenant-farmer an independent and self-reliant existence that would help him become a strong and responsible citizen of our democratic society and actively play his role in nation-building. [13]

Petitioner is reminded, however, of the limitations to his land rights enunciated in section 62 of the same Code:

"Sec. 62. Limitation on Land Rights. - Except in case of hereditary succession by one heir, landholdings acquired under this Code may not be resold, mortgaged, encumbered, or transferred until after the lapse of ten years from the date of full payment and acquisition and after such ten-year period, any transfer, sale or disposition may be made only in favor of persons qualified to acquire economic family-size farm units in accordance with the provisions of this Code: x x x x"

The last point to consider is private respondent's Omnibus Motion, reiterated three times, which prayed that the share or rentals allegedly due her from the date of commencement of this suit up to the date of filing of said Motion, be delivered to private respondent, or deposited in a bonded warehouse.

Considering, however, that petitioner had validly and promptly exercised his right of redemption according to law

as far back as 1970, private respondent's claim for rentals must fail. Petitioner cannot be compelled to pay rentals for the use of the landholdings of which he is deemed the owner-cultivator from the time he fully paid the reasonable price of the parcels of land redeemed by him by consigning in Court the amount covering the full purchase price. There being no opposition on the part of private respondent as to the redemption price, we, therefore, hold the same to be the reasonable price of the landholdings redeemed.

Incidentally, during the pendency of this case, private respondent landowner did not take advantage of the amendment introduced by Republic Act 6389 to section 36 (1) of the Code of Agrarian Reforms (approved on 10 September 1971) to have her landholdings declared suited for residential purposes, as she claims, which could have been a ground for dispossession of a tenant upon payment of disturbance compensation and previous authorization by the Court after due hearing.

WHEREFORE, we hereby set aside the Decision of respondent Court of Appeals promulgated on 22 October 1974 and its Resolutions dated 17 January 1975 and 18 February 1975, and enter judgment affirming the Decision of the Court of Agrarian Relations dated August 20, 1970.

Private respondent is hereby directed to accept the consigned price and execute a deed of conveyance in favor of petitioner, Angel Baltazar, of the real properties specified in the judgment of the trial Court, within thirty (30) days from the finality of this judgment. Should private respondent fail to execute the deed of conveyance within the period specified herein, the Clerk of Court of the Court of Agrarian Relations is hereby directed to execute such deed of conveyance.

No pronouncement as to costs.

SO ORDERED.

Makasiar, Fernandez, Guerrero, and De Castro, JJ., concur.
Teehankee, (Chairman), J., files a qualified concurrence.

[1] Seventh Division composed of JJ. Jose N. Leuterio (ponente), Roseller T. Lim and Francisco Tantuico, Jr.

[2] pp. 284-285, Rollo.

[3] Article 4, New Civil Code.

[4] Segovia v. Noel, 47 Phil. 543 (1925); Tolentino vs. Alzate, et al., 98 Phil 781 (1956).

[5] 55 SCRA 533 (1974).

[6] 82 SCRA 250, 258 (1978).

[7] Ibid.

[8] Almeda vs. CA, 78 SCRA 194, 199-200 (1977), citing Basbas vs. Entena, 28 SCRA 669, 672 (1969).

[9] See Montemayor, Labor, Agrarian and Social Legislation, Vol. III, 1968 Ed., pp. 251-252.

[10] Davao Steel Corp. vs. Cabatuando, et al., 10 SCRA 704 (1964).

[11] p. 151, Rollo.

[12] De Chavez vs. Zobel, 55 SCRA 26 (1974).

[13] *Hidalgo vs. Hidalgo*, 33 SCRA 106 (1970).

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SEPARATE OPINION

TEEHANKEE, J.:

I concur qualifiedly in the result, i. e. the redemption of the land by petitioner Baltazar from respondent purchaser Esguerra as ordered by the Court of Agrarian Relations and which would be upheld in the Court's decision which would also set aside the contrary decision of the Court of Appeals, may be enforced, if the contingencies contemplated in the Court of Appeals' decision have materialized, viz. the duly constituted authority yet to be created by the President of the Philippines at that time has duly determined "that the land, now in question, is not suitable for residential, commercial, industrial or non--agricultural purposes." Respondent should be given the opportunity to show the contrary, in which case redemption should not be allowed but under Section 36 of Republic Act No. 6389, the "agricultural lessee shall be entitled to disturbance compensation equivalent to five years rental on his landholding."

This is but in accordance with the rationale and reservation made in the Court of Appeals decision of October 22, 1974 which I find proper and in order, as follows:

"The questions of fact are: Does the evidence on record sufficiently establish that the land is 'suitably located'? Was the conversion substantially carried out? Was the purchaser or the owner of the land in good faith or in bad faith?

"The determination of these issues of fact and law will ultimately result in either the ejectment of the defendant-tenant and the conversion, by the plaintiff, of the landholding in question from one devoted to agricultural purposes into one for residential purposes; or the defendant becoming the owner of the land by redemption or by repurchase.

"We believe, however, that these questions can no longer be resolved in accordance with the law then in force, and in accordance with the evidence on record, in view of supervening Presidential mandate as contained in Presidential Decrees, Instructions, and Proclamations.

"On October 21, 1972, President Ferdinand E. Marcos issued in his own handwriting Presidential Decree No. 27, otherwise known as the Emancipation Decree, mandating 'the emancipation of Tenant from the bondage of the soil transferring to them the ownership of the land they till and providing the instruments and mechanisms therefore.' On November 25, 1972, the President issued Memorandum No. 123-72 enunciating the guideline that 'no tenant will be ejected or removed pending the promulgation of the Rules and Regulations' for the implementation of Presidential Decree No. 27. In implementing the 'status quo' order of the President, the Department of Agrarian Reform issued on June 19, 1973, Memorandum Circular No. 2-A (Amended), Series of 1973, stating that 'as of October 21, 1972, tenant-farmers are deemed owners of the land they till, subject to the provisions of the rules and regulations to be hereafter promulgated. Meantime, the leasehold system shall be provisionally maintained. The tenant-farmer shall continue to pay the landowner the lease rentals for the time being, which subject to the rules and regulations aforementioned may be later credited as amortization payments.' The memorandum clarified that 'status quo shall mean maintaining the leasehold arrangement

existing as of October 21, 1972. ""

The Court of Appeals therefore properly rendered the follow-ing judgment:

"WHEREFORE, the instant suit for ejectment is DISMISSED, and it is hereby ordered that the redemption money deposited by defendant-appellee with the court below be returned to him. In the meantime, pending the promulgations of the rules and regulations implementing Presidential Decree No. 27, the plaintiff and the defendant should maintain the status quo, that is, the leasehold relationship as landholder and agricultural les-see, the latter to continue to pay the plaintiff lease rentals under the leasehold arrangement existing as of October 21, 1972. No costs."

In denying petitioner's motion for reconsideration of its decision, the Court of Appeals in its extended Resolution of January 17, 1975 properly ruled as follows:

"The determination of whether or not a parcel of agricultural land is suitable for residential purposes, while vested in the courts under the Agricultural Land Reform Code, as amended, had, by this statement of policy, been removed from the courts. Whether or not the land is suitable for residential, commercial, or industrial purposes, can be determined only by a national development authority created, or to be created, by His Ex-cellency. We do not now have that authority. Consequently, We are not now in a position to determine whether or not the defendant may exer-cise the right of redemption, as We do not now have the jurisdiction to determine the suitability or non-suitability of the land now in question, for residential purposes.

"WHEREFORE, the motion for reconsideration is DENIED, but without prejudice to the right of the defendant to exercise the right of redemption, should the National Development Authority, to be created by His Excellency, find that the land, now in question, is not suitable for residential, commercial, industrial, or non-agricultural pur-poses."

I believe that with all the more reason should both parties be given the fullest opportunity (as held by the Court of Appeals) to enlighten the Court on this crucial matter of whether or not the land was or has been found by the proper authorities to be suitable for residential or non-agricultural purposes, since the Court's decision has found correctly - contrary to the Court of Appeals' misimpression quoted hereinabove - that Presidential Decree Nos. 27 and 316 are to be applied prospectively, and not retroactively,[1] and therefore the payment of disturbance compensation by respondent to petitioner as provided in Section 36 of the Republic Act 6389 would be applicable.

Furthermore, as noted on page 6 of the decision, petitioner Baltazar is already 88 years of age and it has not been shown that he has direct descendants or immediate relatives who would succeed him in the cultivation of the land sought to be redeemed.

Finally and more importantly, if the land in question was in fact determined to be suitable for residential purposes and has in fact been converted into a residential subdivision with-in the three-year period granted by law, redemption would not be feasible. The spirit and letter of the law as embodied in Section 62 of the Code of Agrarian Reform on Limitation on Land Rights[2] do not permit such redemption for speculation and profit-purposes by reselling the subdivided residential lots - since the cited section permits that the redemptioner may trans-fer or dispose of the agrarian lot only until after the lapse of ten years and only "in favor of persons qualified to acquire economic family size farm units." If the land has indeed been found suitable or converted into residential lots, then the payment of disturbance compensation as provided by the law then in force and not redemption would be the relief properly due to petitioner.

[1] Decision, at pages 7 to 10

[2] The text is quoted on pages 16-17, decision.

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