

FARMERS BELONGING TO THE SAMAHANG MAGBUBUKID NG CONCEPCION GRANDE, NAGA CITY REPRESENTED BY RAMON OLIVA, SENTRO PARA SA TUNAY NA REPORMANG AGRARYO (SENTRA) PETITIONERS, VS. BF H...

Ponente: BRUSELAS, JR. J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c9ae9915e330/>

BRUSELAS, JR. J.:

This is a Petition for Review[1] under Rule 43 of the Rules of Court that assails the Decision[2] of the Office of the President (OP) which granted the appeal filed by herein respondent BF Homes Inc. under O.P. Case No. 09-C-109.

In the assailed decision, the OP held:

“WHEREFORE, the instant appeal is hereby GRANTED. The Order dated 15 August 2008 is hereby REVERSED and SET ASIDE. The Order dated 29 July 2002 is hereby REINSTATED.

SO ORDERED.”[3]

Aida Abella-Felipe filed a request before the Department of Agrarian Reform (DAR) to declare certain parcels of land in Concepcion Grande, Naga City, suitable for residential, commercial, industrial and/or other urban purposes pursuant to Section 36 (1), Republic Act 3844 as amended. Those parcels of land are identified as Lot 1, Psd-132093, covered by Transfer Certificate of Title (TCT) No. 5698; Lot 1-A, Psd-22387, covered by TCT No. 1593; and Lot 2-B-3-A-3-A-1, Psd-132467, covered by TCT No. 5662, with an aggregate area of 309,398 square meters, more or less, all registered under the name of Aida Abella-Felipe.

In an Order[4] dated 15 March 1973, DAR Secretary Conrado F. Estrella granted the request for conversion.

On 30 May 1996, herein petitioners, Farmers Belonging to the Samahang Magbubukid ng Concepcion Grande, Naga City, filed a Petition for Cancellation of Conversion Order on the ground that the converted lands remained undeveloped.

In an Order[5] dated 21 July 1997, DAR Undersecretary Artemio A. Adaza, Jr. cancelled the 15 March 1973 Conversion Order after he found that the converted lands had not been developed within five (5) years as required by Administrative Order (AO) No. 12,[6] Series of 1994.

The respondent, who claimed to have acquired the properties of Aida Abella-Felipe subject of the Conversion Order, moved for a reconsideration of the 21 July 1997 Order. Pending resolution of its motion, the respondent filed an Application for the Issuance of DAR Exemption Clearance over parcels of land located in Concepcion Grande, Naga City, registered under its name and covered by TCT Nos. 7135, 7136, 7138 and 7139 with an aggregate area of 42.3827 hectares, more or less.

Meanwhile, the petitioners' Petition for Cancellation of Conversion Order and the respondent's Application for the Issuance of DAR Exemption Clearance were consolidated.

In an Order[7] dated 29 July 2002, DAR Secretary Hernani A. Braganza reversed the 21 July 1997 Order and affirmed the 15 March 1973 Conversion Order, thus:

“WHEREFORE, foregoing premises considered, Order is hereby issued:

1. DENYING the Petition for Cancellation of Conversion Order;
2. REVERSING the 21 July 1997 Order of Undersecretary Artemio A. Adaza;
3. AFFIRMING the 15 March 1973 Order of Secretary Conrado F. Estrella;
4. DIRECTING BF Homes, Inc. to immediately commence development of the subject land; and
5. DIRECTING BF Homes, Inc. to submit to this Office within twenty (20) days from receipt hereof a development plan indicating with specificity the dates when development shall commence and when development shall be completed.

SO ORDERED.”[8]

In denying the petitioners' Petition for Cancellation of Conversion Order, DAR Secretary Braganza explained that the five-year period imposed under AO No. 12 may not be applied because the 15 March 1973 Conversion Order was issued prior to the issuance of the AO No. 12.

There being no appeal filed by either of the parties, the 29 July 2002 Order became final and executory.

On 28 November 2003, however, the petitioners filed a Petition for Annulment[9] of the 29 July 2002 Order. In an Order[10] dated 15 August 2008, DAR Secretary Nasser C. Pangandaman granted the petitioners' Petition for Annulment and consequently revoked the 15 March 1973 Conversion Order. Secretary Pangandaman justified that the subject landholding was a prime agricultural land predominantly planted with rice and had not been developed for twenty-five (25) years.

The respondent appealed to the OP. In granting the respondent's appeal, the OP shared the view of Secretary Braganza that the provisions of AO No. 12 could not be the basis of the cancellation of the 15 March 1973 Conversion Order because the Conversion Order was issued prior to the AO No. 12 and the Conversion Order contained no period within which development of the converted lands must commence and be completed. The OP added that by virtue of the 15 March 1973 Conversion Order and the re-classification of the subject properties for residential use by the local government of Naga City per Certification dated 27 April 2000 of the Naga City Zoning Administrator per Zoning Ordinance No. 603, Series of 1978, approved by the Human Settlement Commission (HSC) (now HLURB) on 24 September 1980, the subject parcels of land were effectively excluded from the coverage of the Comprehensive Agrarian Reform Law (CARL). Furthermore, it noted that the 29 July 2002 Order had already become final and executory, there being no appeal filed within the reglementary period and the Petition for Annulment resorted to by the petitioners was not sanctioned by the DAR Rules.[11]

Their motion for reconsideration having been denied, the petitioners came to us via a petition for review under Rule 43 of the Rules of Court based on the following grounds:

“I. THE OFFICE OF THE PRESIDENT COMMITTED GRAVE ERROR WHEN IT FAILED TO RULE THAT THE RESPONDENT VIOLATED THE ORDER OR CONVERSION PREVIOUSLY GRANTED TO THEM BY THE DEPARTMENT OF AGRARIAN REFORM (DAR);

II. THE OFFICE OF THE PRESIDENT COMMITTED GRAVE ERROR WHEN IT RULED THAT THE SUBJECT LANDHOLDING IS NOT SUITABLE FOR AGRICULTURAL PURPOSES;

III. THE OFFICE OF THE PRESIDENT COMMITTED GRAVE ERROR WHEN IT RULED THAT THE SUBJECT LANDHOLDING IS NOT WITHIN THE COVERAGE OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM.”[12]

The petitioners insist on the cancellation of the 13 March 1973 Conversion Order contending that the respondent failed to develop the subject parcels of land within the period provided in the said order. They maintain that the rule on the prospective application of laws is not applicable because AO No. 12 is only a guideline for the implementation of the CARL. Furthermore, they claim that the subject parcels of land are still agricultural and that they were not validly re-classified to be eligible for conversion under the CARL. They add that the Zoning Ordinance No. 603 did not categorically classify the subject properties for residential use.

For its part, the respondent counters that the OP was correct in upholding the 13 March 1973 Conversion Order because such order had attained finality and could no longer be modified. It asserts that the provisions of Republic Act No. 6657 (CARL), which took effect in June 1988, cannot have a retroactive application as to invalidate the earlier conversion and reclassification of the subject parcels of land. Finally, it argues that the Zoning Ordinance No. 603 need not specifically mention all the properties covered therein, as it was made effective to all those found within the geographical location stated therein.

The petition for review lacks merit.

Before we delve into the merits of the petition, we have to clarify that Rule 43 of the Rules of Court, resorted to by the petitioners, governs the filing of a Petition for Review from a decision of the Office of the President and other quasi-judicial agencies. It does not govern a Petition for Review on Certiorari, as referred to by the petitioners in this petition, which is covered by Rule 45 nor a Petition for Certiorari under Rule 65.

In the main, the OP reinstated the 29 July 2002 Order of Secretary Braganza. In that order, the petitioners' Petition for Cancellation of the 15 March 1973 Conversion Order was denied and the impugned Conversion Order was affirmed.

We sustain the OP.

First, the 29 July 2002 Order of Secretary Braganza can no longer be reviewed, much less modified, because, as admitted by the petitioners themselves, such order had become final and executory. A judgment that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land.[13] The reason for this is explained in *Apo Fruits Corporation v. Court of Appeals*: [14]

“The doctrine of immutability and inalterability of a final judgment has a two-fold purpose: (1) to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business and (2) to put an end to judicial controversies, at the risk of occasional errors, which is precisely why courts exist. Controversies cannot drag on indefinitely. The rights and obligations of every litigant must not hang in suspense for an indefinite period of time. The doctrine is not a mere technicality to be easily brushed aside, but a matter of public policy as well as a time-honored principle of procedural law. (Citation omitted)”

Thus, the petitioners' Petition for Annulment should not have been entertained by the DAR because the order sought to be annulled had already become final and executory. Furthermore, no such kind of remedy is sanctioned by the DAR Rules. Under the DAR AO 01-02,[15] the rules in force at the time the 29 July 2002 Order was issued, the proper remedy from the decision, resolution or final order of the Secretary was to appeal either to the Office of the Bureau of Agrarian Legal Assistance (BALA) Director or directly to the Office of the President[16] or to resort to certiorari to the Court of Appeals in accordance with Section 54 of RA 6657.[17] Also, the petitioners' Petition for Annulment may not be treated as an annulment of judgment or final order under Rule 47 of the Rules of Court. For one, such rule governs the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial,

appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.[18] For another, the only grounds for annulment of judgment are extrinsic fraud and lack of jurisdiction and none of these grounds were raised by the petitioners.

Second, the provisions of AO No. 12 may not be applied. Article VI(G) and XV of AO No. 12 respectively provide:

“G. To prevent circumvention of coverage under the CARP, conversion shall be granted only upon evidence that the project to be established therein is viable and beneficial to the community affected and that the land development phase of the area will be completed within one (1) year after the issuance of the Order of Conversion where the area is five (5) hectares or less. Should the area exceed five (5) hectares, an additional year shall be allowed for every five (5) hectares or a fraction thereof but in no case shall the completion of development extend beyond five (5) years from the issuance of the Order of Conversion.”

“XV. CANCELLATION OR WITHDRAWAL OF APPROVAL The DAR may cancel or withdraw authorization for land use conversion, based on the following grounds:

- a. Misrepresentation or concealment of material facts in the application;
- b. Failure to implement and complete the land development of the area within the specified time; and
- c. Any other violations of the rules and regulations which are material to the grant of the conversion order.”

There is no doubt that under AO No. 12, the DAR may cancel or withdraw authorization for land use conversion if the land development of the area be not implemented and completed within the specified time. AO No. 12, however, was only approved on 24 October 1994. At the time the Conversion Order was issued to Aida Abella-Felipe on 15 March 1973, the requirement that the converted land should be developed within the period provided under AO No. 12 was not yet in force. Aida Abella-Felipe and her successor-in-interest were not therefore bound by such a requirement. In fact, the transitory provisions of AO No. 12 categorically provide for its prospective application, thus:

“XVII. TRANSITORY PROVISIONS

The provisions of this Administrative Order shall be applicable to all applications filed on or after its effectivity. All other applications filed previous to this Administrative Order shall be governed by the pertinent administrative order or issuances in force, at the time of the filing of the applications, and shall be processed accordingly.

However, applications covering lands five (5) hectares and below situated within non-agricultural zones which are pending in the Region and either DAR field offices, shall be approved or disapproved by the Regional Director concerned, upon the effectivity of this Administrative Order. Applications covering 5 hectares and below pending at the DAR Central Office shall be processed in accordance with AO No. 11, Series of 1990. (Emphasis ours)”

In the instant petition, the petitioners alleged that the respondent violated the 15 March 1973 Conversion Order because it failed to develop the subject properties within the period provided in the said conversion order.[19] This is without basis. As correctly pointed out by Secretary Braganza and the OP, the 15 March 1973 Conversion Order contained no period within which development of the converted land must commence and be completed. This may be gleaned from the dispositive portion of said Conversion Order, and we quote:

“WHEREFORE, in view of the foregoing and finding the feasibility of the parcels of land in question for conversion into residential, commercial, industrial and other urban purposes as per recommendation of the National Planning Commission to be well taken and considering that all the tenants concerned have given their conformity to the proposed conversion, the instant petition should be, as it is hereby given further favorable

due course and the subject lands should be declared as it is hereby declared suited for residential, commercial, industrial and other urban purposes. It is understood however, that this Order is without prejudice to the actual payment to all the tenants aforementioned of the just and legal disturbance compensation to which they are entitled pursuant to and in accordance with the Disturbance Compensation Computation agreed upon by the representatives of the owners and the tenants in a conference held for the purpose in the presence of the officials of this Department, which computation is hereto attached and incorporated as part of this Order; otherwise, their tenurial status in relation to the subject parcels of land shall not be disturbed.

SO ORDERED.”[20]

We note that the application for conversion was anchored on Section 36(1), Republic Act (RA) No. 3844,[21] which provides:

“Section 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 dispossessions.

XXXX XXXX XXXX”

Based on the foregoing provision, the agricultural owner, in this case, the respondent's predecessor-in-interest, is also obliged to substantially carry out the conversion within one year after the dispossession of the tenant and failure to do so will entitle the tenant the right to demand possession of the land and recover damages for any loss incurred by him because of said dispossession. Granting that the conversion was not carried out within one year from the issuance of the Conversion Order on 15 March 1973, the remedy of the petitioners would have been to demand possession of the land. If the petitioners had continued to possess the subject properties, as they alleged, they could have at once asked for the cancellation of the Conversion Order for failure to carry out the conversion, which they failed to seasonably do. Section 38 of RA 3844 provides that an action to enforce any cause of action under said law shall be barred if not commenced within three years after such cause of action accrued. Because of the petitioners' inaction for more than two decades, they are barred from initiating any action based on the provisions of RA 3844. Even if we are to apply Article 1144 of the Civil Code which provides that actions based on an obligation created by law must be brought within ten (10) years from the time the right of action accrues, the petitioners' action had already prescribed just the same.

Third, the subject properties are not covered by the CARL. Section 4 of RA 6657 states that the coverage of the CARL is as follows:

“SEC. 4. Scope. – The Comprehensive Agrarian Reform Law of 1989 shall cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture.

More specifically, the following lands are covered by the Comprehensive Agrarian Reform Program:

- (a) All alienable and disposable lands of the public domain devoted to or suitable for agriculture. x x x;
- (b) All lands of the public domain in excess of the specific limits as determined by Congress in the preceding paragraph;
- (c) All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon. (Emphasis ours)”

“Agricultural land” is defined under Section 3(c) of RA 6657 as that which is “devoted to agricultural activity x x x and not classified as mineral, forest, residential, commercial or industrial land.”

The meaning of “agricultural lands” covered by the CARL was explained further by the DAR in its AO No. 1,[22] Series of 1990, dated 22 March 1990, issued pursuant to Section 49 of the CARL. Thus:

“Agricultural land refers to those devoted to agricultural activity as defined in RA 6657 and not classified as mineral or forest by the Department of Environment and Natural Resources (DENR) and its predecessor agencies, and not classified in town plans and zoning ordinances as approved by the Housing and Land Use Regulatory Board (HLURB) and its preceding competent authorities prior to 15 June 1988 for residential, commercial or industrial use.”

It is clear from the last clause of the afore-quoted provision that a land is not agricultural, and therefore, outside the ambit of the CARP if the following conditions concur:

- the land has been classified in town plans and zoning ordinances as residential, commercial or industrial; and
- the town plan and zoning ordinance embodying the land classification has been approved by the HLURB or its predecessor agency prior to 15 June 1988.[23]

In the assailed decision, the OP noted that the subject parcels of land had already been re-classified for residential use by the local government of Naga City as per the Certification dated 27 April 2000 of the Naga City Zoning Administrator per Zoning Ordinance No. 603, Series of 1978, and approved by the HSC on 24 September 1980. Citing *Julio v. Garilao*,[24] it concluded that since the subject properties had already been classified for residential use before the effectivity of the CARL, not to mention the 15 March 1973 Conversion Order, the same are therefore beyond the ambit of the CARL. This factual finding of the OP, having been supported by substantial evidence, is binding on the Cour.[25]

While the petitioners contend that the Zoning Ordinance No. 603 is only a general zoning plan which contains no categorical statement that the subject properties were classified for residential use, they fail to refute the validity of the 27 April 2000 Certification of the Naga City Zoning Administrator to the effect that the subject properties had been re-classified for residential use. Furthermore, the petitioners only submitted an excerpt of the Zoning Ordinance No. 603, and so, there is no way for the Court to validate their assertions.

We, however, take note of the difference between the parcels of land subject of the 15 March 1973 order and those covered by the respondent's application for the issuance of DAR exemption clearance, to wit:

15 March 1973

Conversion Order Application for DAR
exemption clearance

1. TCT-5698, Lot 1, Psd-132093 1. TCT-7315 from TCT-5698

2. TCT-5662, Lot 2-B-3-A-3-A-1, Psd-132467) 2. TCT-7136 from TCT-5662

3. TCT-1593, Lot 1-A, Psd-22387 3. TCT-7138 from TCT-6475

4. TCT-7139 from TCT-T-299 (254)

Total area is 30.9398 hectares, more or less, registered under the name of Aida Abella-Felipe. Total area is 42.3827 hectares, more or less, registered under the name of the respondent.

Apparently, the aggregate area of the properties covered by the 15 March 1973 Conversion Order is smaller, by about eleven (11) hectares, than those referred to in the respondent's application for DAR exemption clearance. Also, TCT-7138 and TCT-7139 were derived from different TCTs, which were not covered by the Conversion Order. Thus, it may not be accurate to say that the entire 42.3827-hectare property was covered by the Conversion Order. Nonetheless, the OP had ruled that the 42.3827 hectares, more or less, have already been re-classified for residential use prior to the effectivity of the CARL and therefore exempt from the CARL.

WHEREFORE, the instant Petition for Review is DENIED DUE COURSE and is consequently DISMISSED.

IT IS SO ORDERED.

Bueser and [*]Reyes Carpio, JJ., concur.

[*] Actg. Third Member per Office Order No. 81-15-ABR dated March 16, 2015.

[1] Erroneously referred to by the petitioners as Petition for Review on Certiorari.

[2] Signed by Executive Secretary Paquito N. Ochoa, Jr. on 31 October 2013, Rollo, pp. 43-47.

[3] Rollo, p. 47.

[4] Annex "E" of the Petition, Rollo, pp. 111-113.

[5] Rollo, pp. 116-117.

[6] Consolidated and Revised Rules and Procedures Governing Conversion of Agricultural Lands to Non-Agricultural Uses.

G.To prevent circumvention of coverage under the CARP, conversion shall be granted only upon evidence that the project to be established therein is viable and beneficial to the community affected and that the land development phase of the area will be completed within one (1) year after the issuance of the Order of Conversion where the area is five (5) hectares or less. Should the area exceed five (5) hectares, an additional year shall be allowed for every five (5) hectares or a fraction thereof but in no case shall the completion of development extend beyond five (5) years from the issuance of the Order of Conversion.

[7] Rollo, pp. 120-125.

[8] Rollo, p. 125.

[9] Rollo, pp. 72-98.

[10] Rollo, pp. 142-146.

[11] DAR A.O. No. 9-94, "Authorizing All Regional Directors (Rds) to Hear and Decide All Protests Involving Coverage Under R.A. No. 6657 of P.D. No. 27 and Defining the Appeal Process from the Rds to the Secretary;" DAR A.O. No. 7-97, "Omnibus Rules and Procedures Governing Conversion of Agricultural Lands to Non-Agricultural Uses;" DAR A.O. No. 1-99, "Revised Rules and Regulations on the Conversion of Agricultural

Lands to Non-Agricultural Uses;" DAR A.O. No. 6-00, "Rules of Procedure for Agrarian Law Implementation (ALI) Cases."

[12] Page 11, Petition, Rollo, p. 20.

[13] Apo Fruits Corporation v. Court of Appeals, G.R. No. 164195, 04 December 2009.

[14] Ibid.

[15] The Comprehensive Rules on Land Use Conversion approved on 28 February 2002.

[16] Section 39.2, DAR AO 01-02.

[17] Section 39.2, DAR AO 01-02.

[18] Section 1, Rule 47 of the Rules of Court.

[19] Paragraph 27, Petition for Review, Rollo, p. 22.

[20] Rollo, pp. 200-201.

[21] Known as the Agricultural Land Reform Code.

[22] Entitled Revised Rules and Regulations Governing Conversion of Private Agricultural Land to Non-Agricultural Uses.

[23] Luna v. Afable, G.R. No 188299, 23 January 2013.

[24] G.R. No. 147146, 29 July 2005, 465 SCRA 173.

[25] Section 10, Rule 43 of the Rules of Court.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.