

**STA. ROSA REALTY DEVELOPMENT CORPORATION, PETITIONER,
VS. JUAN B. AMANTE, FRANCISCO L. ANDAL, LUCIA ANDAL, ANDREA
P. AYENDE, LETICIA P. BALAT, FILOMENA B. BATINO, ANICETO A.
BUR...**

G.R. No. 112526. March 16, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

By virtue of the En Banc Resolution issued on January 13, 2004, the Court authorized the Special First Division to suspend the Rules so as to allow it to consider and resolve the second Motion for Reconsideration of respondents,[1] after the motion was heard on oral arguments on August 13, 2003. On July 9, 2004,[2] the Court resolved to submit for resolution the second Motion for Reconsideration in G.R. No. 112526 together with G.R. No. 118338 in view of the Resolution of the Court dated January 15, 2001 issued in G.R. No. 118838,[3] consolidating the latter case with G.R. No. 112526, the issues therein being interrelated.[4] Hence, the herein Amended Decision.

The factual background of the two cases is as follows:

The Canlubang Estate in Laguna is a vast landholding previously titled in the name of the late Speaker and Chief Justice Jose Yulo, Sr. Within this estate are two parcels of land (hereinafter referred to as the “subject property”) covered by TCT Nos. 81949 and 84891 measuring 254.766 hectares and part of Barangay Casile, subsequently titled in the name of Sta. Rosa Realty Development Corporation (SRRDC), the majority stockholder of which is C.J. Yulo and Sons, Inc.

The subject property was involved in civil suits and administrative proceedings that led to the filing of G.R. Nos. 112526 and 118838, thus:

Injunction Case Filed by Amante, et al.

On December 6, 1985, Amante, et al., who are the private respondents in G.R. No. 112526 and petitioners in G.R. No. 118838, instituted an action for injunction with damages in the Regional Trial Court of Laguna (Branch 24) against Luis Yulo, SRRDC, and several SRRDC security personnel, docketed as Civil Case No. B-2333. Amante, et al. alleged that: they are residents of Barangay Casile, Cabuyao, Laguna, which covers an area of around 300 hectares; in 1910, their ancestors started occupying the area, built their houses and planted fruit-bearing trees thereon, and since then, have been peacefully occupying the land; some time in June 3, 1985, SRRDC’s security people illegally entered Bgy. Casile and fenced the area; SRRDC’s men also entered the barangay on November 4, 1985, cut down the trees, burned their huts, and barred the lone jeepney from entering the Canlubang Sugar Estate; as a result of these acts, Amante, et al. were deprived of possession and cultivation of their lands. Thus, they claimed damages, sought the issuance of permanent injunction and proposed that a right of way be declared.[5]

In their Answer, the defendants denied the allegations and disclaimed any control and supervision over its security personnel. Defendant SRRDC also alleged that as the real owner of the property, it was the one that suffered damages due to the encroachment on the property.[6]

A writ of preliminary injunction was issued by the trial court on August 17, 1987,[7] but this was subsequently dissolved by the Court of Appeals (CA) on April 22, 1988 in its decision in CA-G.R. SP No. 13908.[8]

After trial on the merits, the trial court, on January 20, 1992, rendered a decision ordering Amante, et al. to vacate the property, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the defendants and against the plaintiffs hereby dismissing the complaint and amended complaint.

The plaintiffs are hereby ordered to vacate the parcels of land belonging to the defendants Luis Yulo and Sta. Rosa Realty. They are likewise enjoined from entering the subject parcels of land.

Although attorney's fees and expenses of litigation are recoverable in case of a clearly unfounded civil action against the plaintiff (Enervida vs. De la Torre, 55 SCRA 339), this Court resolves not to award attorney's fees etc. in favor of the defendants because the plaintiffs appear to have acted in good faith in filing the present civil action (Salao vs. Salao, 70 SCRA 65) and that it would not be just and equitable to award the same in the case at bar. (Liwanag vs. Court of Appeals, 121 SCRA 354) Accordingly, the other reliefs prayed for by the defendants are hereby dismissed.

SO ORDERED.[9]

Amante, et al. appealed the aforesaid decision to the CA, docketed as CA-G.R. CV No. 38182.

On June 28, 1994, the CA affirmed with modification the decision of the trial court in the injunction case. The dispositive portion of the appellate court's decision[10] reads as follows:

WHEREFORE, the judgment herein appealed from is hereby AFFIRMED, with the modification that the defendants-appellees are hereby ordered, jointly and severally, to pay the plaintiffs-appellants nominal damages in the amount of P5,000.00 per plaintiff. No pronouncement as to costs.

SO ORDERED.[11]

Nominal damages were awarded by the CA because it found that SRRDC violated Amante, et al.'s rights as possessors of the subject property.[12]

Amante, et al. filed a motion for reconsideration thereof, pointing out the DARAB's decision placing the property under compulsory acquisition, and the CA decision in CA-G.R. SP No. 27234, affirming the same.[13] The CA, however, denied the motion, with the modification that only SRRDC and the defendants-security guards should be held jointly and severally liable for the nominal damages awarded. It also made the clarification that the decision should not preempt any judgment or prejudice the right of any party in the agrarian reform case pending before the Supreme Court (G.R. No. 112526).[14]

Thus, Amante, et al. filed on March 2, 1995, herein petition, docketed as G.R. No. 118838 on the following grounds:

4.1. THE COURT OF APPEALS DECIDED THE CASE CONTRARY TO LAW OR APPLICABLE SUPREME COURT DECISIONS BECAUSE:

4.1.1 FIRST, PETITIONERS MAY NOT BE LAWFULLY EVICTED FROM THEIR LANDHOLDINGS CONSIDERING THAT:

-- (A) PETITIONERS ARE ALREADY THE REGISTERED OWNERS UNDER THE TORRENS SYSTEM OF THE PROPERTIES IN QUESTION SINCE FEBRUARY 26, 1992 BY VIRTUE OF RA 6657 OR THE COMPREHENSIVE AGRARIAN REFORM LAW;

-- (B) THE COURT OF APPEALS HAS AFFIRMED THE REGIONAL TRIAL COURT OF LAGUNA'S DISMISSAL OF THE EJECTMENT CASES FILED BY RESPONDENT SRRDC AGAINST PETITIONERS; AND

-- (C) ASSUMING FOR THE SAKE OF ARGUMENT ONLY THAT PETITIONERS ARE NOT YET THE REGISTERED OWNERS OF THE PROPERTIES IN QUESTION, RESPONDENTS MAY NOT RAISE THE ISSUE OF OWNERSHIP IN THIS CASE FOR INJUNCTION WITH DAMAGES, THE SAME TO BE VENTILATED IN A SEPARATE ACTION, NOT IN THIS CASE BROUGHT TO PREVENT RESPONDENTS FROM COMMITTING FURTHER ACTS OF DISPOSSESSION [BACAR V. DEL ROSARIO ET AL., 171 SCRA 451 (1989)].

4.1.2 SECOND, PETITIONERS ARE ENTITLED TO MORAL, EXEMPLARY DAMAGES AND ATTORNEY'S FEES, INSTEAD OF MERE NOMINAL DAMAGES, CONSIDERING THAT THE COURT OF APPEALS FOUND RESPONDENTS TO HAVE UNLAWFULLY AND ILLEGALLY DISTURBED PETITIONERS' PEACEFUL AND CONTINUOUS POSSESSION.[15]

Ejectment Cases Filed by SRRDC

Between October 1986 and August 1987, after the injunction case was filed by Amante, et al., SRRDC filed with the Municipal Trial Court (MTC) of Cabuyao, Laguna, several complaints for forcible entry with preliminary injunction and damages against Amante, et al., docketed as Civil Cases Nos. 250, 258, 260, 262 and 266. SRRDC alleged that some time in July 1987, they learned that Amante, et al., without their authority and through stealth and strategy, were clearing, cultivating and planting on the subject property; and that despite requests from SRRDC's counsel, Amante, et al. refused to vacate the property, prompting them to file the ejectment cases.[16] Amante, et al. denied that SRRDC are the absolute owners of the property, stating that they have been in peaceful possession thereof, through their predecessors-in-interest, since 1910.[17]

On May 24, 1991, the MTC-Cabuyao rendered its decision in favor of SRRDC. Amante, et al. were ordered to surrender possession and vacate the subject property. The decision was appealed to the Regional Trial Court of Biñan, Laguna (Assisting Court).

On February 18, 1992, the RTC dismissed the ejectment cases on the ground that the subject property is an agricultural land being tilled by Amante, et al., hence it is the Department of Agrarian Reform (DAR), which has jurisdiction over the dispute.[18] The RTC's dismissal of the complaints was brought to the CA via a petition for review, docketed as CA-G.R. SP No. 33382.[19] In turn, the CA dismissed the petition per its Decision dated January 17, 1995 on the ground that SRRDC failed to show any prior physical possession of the subject property that would have justified the filing of the ejectment cases.[20] Also, the CA did not sustain the RTC's finding that the subject properties are agricultural lands and Amante, et al. are tenant/farmers thereof, as the evidence on record does not support such finding. The parties did not file any motion for reconsideration from the Court of Appeals' dismissal, hence, it became final and executory.[21]

Administrative Proceedings

While the injunction and ejectment cases were still in process, it appears that in August, 1989, the Municipal Agrarian Reform Office (MARO) issued a Notice of Coverage to SRRDC, informing petitioners that the property covered by TCT Nos. T-81949, T-84891 and T-92014 is scheduled for compulsory acquisition under the Comprehensive Agrarian Reform Program (CARP).[22] SRRDC filed its "Protest and Objection" with the

MARO on the grounds that the area was not appropriate for agricultural purposes, as it was rugged in terrain with slopes of 18% and above, and that the occupants of the land were squatters, who were not entitled to any land as beneficiaries.[23] Thereafter, as narrated in the Decision of the Court dated October 12, 2001 in G.R. No. 112526, the following proceedings ensued:

On August 29, 1989, the farmer beneficiaries together with the BARC chairman answered the protest and objection stating that the slope of the land is not 18% but only 5-10% and that the land is suitable and economically viable for agricultural purposes, as evidenced by the Certification of the Department of Agriculture, municipality of Cabuyao, Laguna.

On September 8, 1989, MARO Belen dela Torre made a summary investigation report and forwarded the Compulsory Acquisition Folder Indorsement (CAFI) to the Provincial Agrarian Reform Officer (hereafter, PARO).

On September 21, 1989, PARO Durante Ubeda forwarded his endorsement of the compulsory acquisition to the Secretary of Agrarian Reform.

On November 23, 1989, Acting Director Eduardo C. Visperas of the Bureau of Land Acquisition and Development, DAR forwarded two (2) Compulsory Acquisition Claim Folders covering the landholding of SRRDC, covered by TCT Nos. T-81949 and T-84891 to the President, Land Bank of the Philippines for further review and evaluation.

On December 12, 1989, Secretary of Agrarian Reform Miriam Defensor Santiago sent two (2) notices of acquisition to petitioner, stating that petitioner's landholdings covered by TCT Nos. T-81949 and T-84891, containing an area of 188.2858 and 58.5800 hectares, valued at P4,417,735.65 and P1,220,229.93, respectively, had been placed under the Comprehensive Agrarian Reform Program.

On February 6, 1990, petitioner SRRDC in two letters separately addressed to Secretary Florencio B. Abad and the Director, Bureau of Land Acquisition and Distribution, sent its formal protest, protesting not only the amount of compensation offered by DAR for the property but also the two (2) notices of acquisition.

On March 17, 1990, Secretary Abad referred the case to the DARAB for summary proceedings to determine just compensation under R.A. No. 6657, Section 16.

On March 23, 1990, the LBP returned the two (2) claim folders previously referred for review and evaluation to the Director of BLAD mentioning its inability to value the SRRDC landholding due to some deficiencies.

On March 28, 1990, Executive Director Emmanuel S. Galvez wrote the Land Bank President Deogracias Vistan to forward the two (2) claim folders involving the property of SRRDC to the DARAB for it to conduct summary proceedings to determine the just compensation for the land.

On April 6, 1990, petitioner sent a letter to the Land Bank of the Philippines stating that its property under the aforesaid land titles were exempt from CARP coverage because they had been classified as watershed area and were the subject of a pending petition for land conversion.

On May 10, 1990, Director Narciso Villapando of BLAD turned over the two (2) claim folders (CACF's) to the Executive Director of the DAR Adjudication Board for proper administrative valuation. Acting on the CACF's, on September 10, 1990, the Board promulgated a resolution asking the office of the Secretary of Agrarian Reform (DAR) to first resolve two (2) issues before it proceeds with the summary land valuation proceedings.

The issues that need to be threshed out were as follows: (1) whether the subject parcels of land fall within the coverage of the Compulsory Acquisition Program of the CARP; and (2) whether the petition for land conversion of the parcels of land may be granted.

On December 7, 1990, the Office of the Secretary, DAR, through the Undersecretary for Operations (Assistant Secretary for Luzon Operations) and the Regional Director of Region IV, submitted a report answering the two issues raised. According to them, firstly, by virtue of the issuance of the notice of coverage on August 11, 1989, and notice of acquisition on December 12, 1989, the property is covered under compulsory acquisition. Secondly, Administrative Order No. 1, Series of 1990, Section IV D also supports the DAR position on the coverage of the said property. During the consideration of the case by the Board, there was no pending petition for land conversion specifically concerning the parcels of land in question.

On February 19, 1991, the Board sent a notice of hearing to all the parties interested, setting the hearing for the administrative valuation of the subject parcels of land on March 6, 1991. However, on February 22, 1991, Atty. Ma. Elena P. Hernandez-Cueva, counsel for SRRDC, wrote the Board requesting for its assistance in the reconstruction of the records of the case because the records could not be found as her co-counsel, Atty. Ricardo Blancaflor, who originally handled the case for SRRDC and had possession of all the records of the case was on indefinite leave and could not be contacted. The Board granted counsel's request and moved the hearing on April 4, 1991.

On March 18, 1991, SRRDC submitted a petition to the Board for the latter to resolve SRRDC's petition for exemption from CARP coverage before any administrative valuation of their landholding could be had by the Board.

On April 4, 1991, the initial DARAB hearing of the case was held and subsequently, different dates of hearing were set without objection from counsel of SRRDC. During the April 15, 1991 hearing, the subdivision plan of subject property at Casile, Cabuyao, Laguna was submitted and marked as Exhibit "5" for SRRDC. At the hearing on April 23, 1991, the Land Bank asked for a period of one month to value the land in dispute.

At the hearing on April 23, 1991, certification from Deputy Zoning Administrator Generoso B. Opina was presented. The certification issued on September 8, 1989, stated that the parcels of land subject of the case were classified as "Industrial Park" per Sangguniang Bayan Resolution No. 45-89 dated March 29, 1989.

To avert any opportunity that the DARAB might distribute the lands to the farmer beneficiaries, on April 30, 1991, petitioner filed a petition with DARAB to disqualify private respondents as beneficiaries. However, DARAB refused to address the issue of beneficiaries.[24]

...

On December 19, 1991, the DARAB promulgated a decision, affirming the dismissal of the protest of SRRDC against the compulsory coverage of the property covered by TCT Nos. 81949 and 84891. The decretal portion of the decision reads:

WHEREFORE, based on the foregoing premises, the Board hereby orders:

- The dismissal for lack of merit of the protest against the compulsory coverage of the landholdings of Sta. Rosa Realty Development Corporation (Transfer Certificates of Title Nos. 81949 and 84891 with an area of 254.766 hectares) in Barangay Casile, Municipality of Cabuyao, Province of Laguna under the Comprehensive Agrarian Reform Program is hereby affirmed;
- The Land Bank of the Philippines (LBP) to pay Sta. Rosa Realty Development Corporation the amount of Seven Million Eight Hundred Forty-One Thousand, Nine Hundred Ninety Seven Pesos and Sixty-Four centavos (P7,841,997.64) for its landholdings covered by the two (2) Transfer Certificates of Title mentioned above. Should there be a rejection of the payment tendered, to open, if none has yet been made, a trust account for said amount in the name of Sta. Rosa Realty Development Corporation;
- The Register of Deeds of the Province of Laguna to cancel with dispatch Transfer Certificate of Title Nos. 84891 and 81949 and new one be issued in the name of the Republic of the Philippines, free from liens and

encumbrances;

- The Department of Environment and Natural Resources either through its Provincial Office in Laguna or the Regional Office, Region IV, to conduct a final segregation survey on the lands covered by Transfer Certificate of Title Nos. 84891 and 81949 so the same can be transferred by the Register of Deeds to the name of the Republic of the Philippines;

- The Regional Office of the Department of Agrarian Reform through its Municipal and Provincial Agrarian Reform Office to take immediate possession on the said landholding after Title shall have been transferred to the name of the Republic of the Philippines, and distribute the same to the immediate issuance of Emancipation Patents to the farmer-beneficiaries as determined by the Municipal Agrarian Reform Office of Cabuyao, Laguna.[25]

On July 11, 1991, DAR Secretary Benjamin T. Leong issued a memorandum directing the Land Bank of the Philippines (LBP) to open a trust account in favor of SRRDC, for P5,637,965.55, as valuation for the SRRDC property.

The titles in the name of SRRDC were cancelled and corresponding TCTs were issued in the name of the Republic of the Philippines on February 11, 1992,[26] after which Certificates of Land Ownership Award (CLOA) were issued in the name of the farmers-beneficiaries on February 26, 1992.[27]

In the meantime, SRRDC had filed with the CA a petition for review of the DARAB's decision, docketed as CA-G.R. SP No. 27234.

On November 5, 1993, the CA affirmed the decision of DARAB, to wit:

WHEREFORE, premises considered, the DARAB decision dated December 19, 1991 is AFFIRMED, without prejudice to petitioner Sta. Rosa Realty Development Corporation ventilating its case with the Special Agrarian Court on the issue of just compensation.[28]

Hence, SRRDC filed on November 24, 1993, herein petition, docketed as G.R. No. 112526 on the following grounds:

I

THE COURT OF APPEALS COMMITTED A GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF ITS JURISDICTION IN RULING THAT THE SRRDC PROPERTIES, DESPITE THE UNDISPUTED FACT OF THEIR NON-AGRICULTURAL CLASSIFICATION PRIOR TO RA 6657, ARE COVERED BY THE CARP CONTRARY TO THE NATALIA REALTY DECISION OF THIS HONORABLE COURT.

i. The SRRDC properties have been zoned and approved as 'PARK' since 1979.

ii. The SRRDC properties form part of a watershed area.

II

THE COURT OF APPEALS COMMITTED A GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF ITS JURISDICTION IN DISREGARDING ECOLOGICAL CONSIDERATIONS AS MANDATED BY LAW.

III

THE COURT OF APPEALS COMMITTED A GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF ITS JURISDICTION IN AFFIRMING THE DISTRIBUTION OF THE SRRDC PROPERTIES TO PRIVATE RESPONDENTS WHO HAVE BEEN JUDICIALLY DECLARED AS

SQUATTERS AND THEREFORE ARE NOT QUALIFIED BENEFICIARIES PURSUANT TO THE CENTRAL MINDANAO UNIVERSITY DECISION OF THIS HONORABLE COURT.

- i. The acquisition of the SRRDC properties cannot be valid for future beneficiaries.
- ii. Section 22 of RA 6657 insofar as it expands the coverage of the CARP to 'landless residents' is unconstitutional.

IV

THE COURT OF APPEALS COMMITTED A GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF ITS JURISDICTION IN HOLDING THAT THE DARAB HAS JURISDICTION TO PASS UPON THE ISSUE OF WHETHER THE SRRDC PROPERTIES ARE SUBJECT TO CARP COVERAGE.[29]

On October 12, 2001, the Court rendered its Decision in G.R. No. 112526 only, setting aside the decision of the CA in CA-G.R. SP No. 27234 and ordering the remand of the case to the DARAB for re-evaluation and determination of the nature of the land. The dispositive portion of the Decision reads as follows:

IN VIEW WHEREOF, the Court SETS ASIDE the decision of the Court of Appeals in CA-G.R. SP No. 27234.

In lieu thereof, the Court REMANDS the case to the DARAB for re-evaluation and determination of the nature of the parcels of land involved to resolve the issue of its coverage by the Comprehensive Land Reform Program.

In the meantime, the effects of the CLOAs issued by the DAR to supposed farmer beneficiaries shall continue to be stayed by the temporary restraining order issued on December 15, 1993, which shall remain in effect until final decision on the case.

No costs.

SO ORDERED.[30]

It is the opinion of the Court in G.R. No. 112526, that the property is part of a watershed, and that during the hearing at the DARAB, "there was proof that the land may be excluded from the coverage of the CARP because of its high slopes." [31] Thus, the Court concluded that a remand of the case to the DARAB for re-evaluation of the issue of coverage is appropriate in order to resolve the true nature of the subject property. [32]

In their Memorandum, Amante, et al. argues that there exist compelling reasons to grant the second motion for reconsideration of the assailed decision of the Court, to wit:

2.1 Only QUESTIONS OF LAW are admittedly and undeniably at issue; yet the Honorable Court reviewed the findings of facts of the Court of Appeals and the DARAB although the case does not fall into any of the well-recognized exceptions to conduct a factual review. Worse, the 12 October 2001 Decision assumed facts not proven before any administrative, quasi-judicial or judicial bodies;

2.2 The DARAB and the Court of Appeals already found the land to be CARPable; yet the Honorable Court remanded the case to DARAB to re-evaluate if the land is CARPable;

2.3 The Decision did not express clearly and distinctly the facts and the law on which it is based;

2.4 The Decision renewed the Temporary Restraining Order issued on 15 December 1993, issuance of which is barred by Sec. 55 of R.A. 6657; and

2.5 This Honorable Court denied private respondents' Motion for Reconsideration although issues raised

therein were never passed upon in the 12 October 2001 Decision or elsewhere.[33]

The DAR and the DARAB, through the Office of the Solicitor General, did not interpose any objection to the second motion for reconsideration. It also maintained that if SRRDC's claim that the property is watershed is true, then it is the DENR that should exercise control and supervision in the disposition, utilization, management, renewal and conservation of the property.[34]

SRRDC meanwhile insists that there are no compelling reasons to give due course to the second motion for reconsideration.[35]

At the outset, the Court notes that petitioner designated its petition in G.R. No. 112526 as one for review on certiorari of the decision of the CA. In the same breath, it likewise averred that it was also being filed as a special civil action for certiorari as public respondents committed grave abuse of discretion.[36] Petitioner should not have been allowed, in the first place, to pursue such remedies simultaneously as these are mutually exclusive.[37]

It is SRRDC's claim that the CA committed grave abuse of discretion in holding that the subject property is agricultural in nature. In support of its contention, it argued, among others, that the subject property had already been classified as "park" since 1979 under the Zoning Ordinance of Cabuyao, as approved by the Housing and Land Use Regulatory Board (HLURB); that it forms part of a watershed; and that the CA disregarded ecological considerations.[38] SRRDC also claimed that Amante, et al. are not qualified beneficiaries.[39]

Clearly, these issues are factual in nature, which the Court, as a rule, should not have considered in this case. However, there are recognized exceptions, e.g., when the factual inferences of the appellate court are manifestly mistaken; the judgment is based on a misapprehension of facts; or the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different legal conclusion.[40] The present cases fall under the above exceptions.

Thus, in order to finally set these cases to rest, the Court shall resolve the substantive matters raised, which in effect comes down to the issue of the validity of the acquisition of the subject property by the Government under Republic Act (R.A.) No. 6657, or the Comprehensive Agrarian Reform Law of 1988 (CARL).

As noted earlier, the DARAB made its finding regarding the nature of the property in question, i.e., the parcels of land are agricultural and may be the subject of compulsory acquisition for distribution to farmer-beneficiaries, thus:

Ocular inspections conducted by the Board show that the subject landholdings have been under the possession and tillage of the DAR identified potential beneficiaries which they inherited from their forebears (workers of the Yulo Estate). They are bonafide residents and registered voters (DARAB Exhibits "C" and "J") of Barangay Casile, Cabuyao, Laguna. There is a barangay road leading toward the barangay school and sites and the settlement has a barangay hall, church, elementary school buildings (DARAB Exhibit "Q"), Comelec precincts (DARAB Exhibits "J-1" and "J-2"), and other structures extant in progressive communities. The barangay progressive development agencies, like the DECS, DA, COMELEC, DAR and Support Services of Land Bank, DPWH, DTI and the Cooperative Development Authority have extended support services to the community (DARAB Exhibits "I", "K" to "K-3", "L", "M", "N", "O", "P" to "P-6"). More importantly, subject landholdings are suitable for agriculture. Their topography is flat to undulating 3-15% slope. (Testimony of Rosalina Jumaquio, Agricultural Engineer, DAR, TSN, June 21, 1991, DARAB Exhibits "F" and "H"). Though some portions are over 18% slope, nevertheless, clearly visible thereat are fruit-bearing trees, like coconut, coffee, and pineapple plantations, etc. (see Petitioners Exhibits "A" to "YYY" and DARAB Exhibits "A" to "S", Records). In other words, they are already productive and fully developed.

...

As the landholdings of SRRDC subject of the instant proceedings are already developed not only as a community but also as an agricultural farm capable of sustaining daily existence and growth, We find no infirmity in placing said parcels of land under compulsory coverage. They do not belong to the exempt class of lands. The claim that the landholding of SRRDC is a watershed; hence, belonging to the exempt class of lands is literally “throwing punches at the moon” because the DENR certified that “the only declared watershed in Laguna Province and San Pablo City is the Caliraya-Lumot Rivers (Petitioner’s Exhibit “A”). A sensu contrario, the landholdings subject herein are not.[41] (Emphasis supplied)

The evidence on record supports these findings, to wit:

- Certification dated January 16, 1989 by the OIC Provincial Environment and Natural Resources Office of Laguna that the only declared watershed in the Laguna province and San Pablo City is the Caliraya-Lumot Rivers No. 1570 dated September 1, 1976;[42]
- Map prepared by Agricultural Engineer Rosalina H. Jumaquio showing that: a) the topography of the property covered by TCT No. T-84891 topography is flat to undulating with a 5 to 10% slope; (b) it is suitable to agricultural crops; and (c) the land is presently planted with diversified crops;[43]
- Certification dated August 28, 1989 by APT Felicito Buban of the Department of Agriculture of Laguna that, per his ocular inspection, the subject property is an agricultural area, and that the inhabitants’ main occupation is farming;[44]
- Pictures taken by MARO Belen La Torre of Cabuyao, Laguna, showing that the property is cultivated and inhabited by the farmer-beneficiaries;[45]

SRRDC however, insists that the property has already been classified as a “municipal park” and beyond the scope of CARP. To prove this, SRRDC submitted the following:

- Certification dated March 1, 1991 by the Municipality of Cabuyao, Laguna that the entire barangay of Casile is delineated as Municipal Park;[46]
- Certification dated March 11, 1991 by the Housing and Land Use Regulatory Board that the parcels of land located in Barangay Casile are within the Municipal Park, based on the municipality’s approved General Land Use Plan ratified by the Housing and Land Use Regulatory Board as per Resolution No. 38-2 dated June 25, 1980;[47]
- Photocopies of pictures taken by Mr. Ernesto Garcia, Officer-in-Charge of the Special Project Section of CJ Yulo and Sons, Inc., of portions of Barangay Casile;[48]

The Court recognizes the power of a local government to reclassify and convert lands through local ordinance, especially if said ordinance is approved by the HLURB.[49] Municipal Ordinance No. 110-54 dated November 3, 1979, enacted by the Municipality of Cabuyao, divided the municipality into residential, commercial, industrial, agricultural and institutional districts, and districts and parks for open spaces.[50] It did not convert, however, existing agricultural lands into residential, commercial, industrial, or institutional. While it classified Barangay Casile into a municipal park, as shown in its permitted uses of land map, the ordinance did not provide for the retroactivity of its classification. In *Co vs. Intermediate Appellate Court*,[51] it was held that an ordinance converting agricultural lands into residential or light industrial should be given prospective application only, and should not change the nature of existing agricultural lands in the area or the legal relationships existing over such lands. Thus, it was stated:

A reading of Metro Manila Zoning Ordinance No. 81-01, series of 1981, does not disclose any provision converting existing agricultural lands in the covered area into residential or light industrial. While it declared that after the passage of the measure, the subject area shall be used only for residential or light industrial

purposes, it is not provided therein that it shall have retroactive effect so as to discontinue all rights previously acquired over lands located within the zone which are neither residential nor light industrial in nature. This simply means that, if we apply the general rule, as we must, the ordinance should be given prospective operation only. The further implication is that it should not change the nature of existing agricultural lands in the area or the legal relationships existing over such lands ...[52] (Emphasis supplied)

Under Section 3 (c) of R.A. No. 6657, agricultural land is defined as land devoted to agricultural activity and not classified as mineral, forest, residential, commercial or industrial land. Section 3 (b) meanwhile defines agricultural activity as the cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock, poultry or fish, including the harvesting of such products, and other farm activities, and practices performed by a farmer in conjunction with such farming operations done by persons whether natural or juridical.

Before Barangay Casile was classified into a municipal park by the local government of Cabuyao, Laguna in November 1979, it was part of a vast property popularly known as the Canlubang Sugar Estate. SRRDC claimed that in May 1979, “the late Miguel Yulo ... allowed the employees of the Yulo group of companies to cultivate a maximum area of one hectare each subject to the condition that they should not plant crops being grown by the Canlubang Sugar Estate, like coconuts and coffee, to avoid confusion as to ownership of crops.”[53] The consolidation and subdivision plan surveyed for SRRDC on March 10-15, 1984[54] also show that the subject property is sugar land. Evidently, the subject property is already agricultural at the time the municipality of Cabuyao enacted the zoning ordinance, and such ordinance should not affect the nature of the land. More so since the municipality of Cabuyao did not even take any step to utilize the property as a park.

SRRDC cites the case of Natalia Realty, Inc. vs. DAR,[55] wherein it was ruled that lands not devoted to agricultural activity and not classified as mineral or forest by the DENR and its predecessor agencies, and not classified in town plans and zoning ordinances as approved by the HLURB and its preceding competent authorities prior to the enactment of R.A. No. 6657 on June 15, 1988, are outside the coverage of the CARP. Said ruling, however, finds no application in the present case. As previously stated, Municipal Ordinance No. 110-54 of the Municipality of Cabuyao did not provide for any retroactive application nor did it convert existing agricultural lands into residential, commercial, industrial, or institutional. Consequently, the subject property remains agricultural in nature and therefore within the coverage of the CARP.

Only on March 9, 2004, SRRDC filed with the Court a Manifestation pointing out DAR Order No. (E)4-03-507-309 dated February 17, 2004, exempting from CARP coverage two parcels of land owned by SRRDC and covered by TCT Nos. T-85573 and T-92014.[56] The DAR found that these properties have been re-classified into Municipal Parks by the Municipal Ordinance of Cabuyao, Laguna, and are part of the Kabangaan-Casile watershed, as certified by the DENR.[57]

The Court notes however that the said DAR Order has absolutely no bearing on these cases. The herein subject property is covered by TCT Nos. 81949 and 34891, totally different, although adjacent, from the property referred to in said DAR Order.

SRRDC also contends that the property has an 18% slope and over and therefore exempt from acquisition and distribution under Section 10 of R.A. No. 6657. What SRRDC opted to ignore is that Section 10, as implemented by DAR Administrative Order No. 13 dated August 30, 1990, also provides that those with 18% slope and over but already developed for agricultural purposes as of June 15, 1988, may be allocated to qualified occupants.[58] Hence, even assuming that the property has an 18% slope and above, since it is already developed for agricultural purposes, then it cannot be exempt from acquisition and distribution. Moreover, the topography maps prepared by Agricultural Engineer Rosalina H. Jumaquio show that the property to be acquired has a 5-10% flat to undulating slope;[59] that it is suitable to agricultural crops;[60] and it is in fact already planted with diversified crops.[61]

Also, the Certification dated July 1, 1991 by Geodetic Engineer Conrado R. Rigor that the top portion of Barangay Casile has a 0 to 18% slope while the side of the hill has a 19 to 75% slope,[62] was presented by SRRDC only during the proceedings before the CA which had no probative value in a petition for review proceedings. The Court notes that SRRDC had been given ample time and opportunity by the DARAB to prove the grounds for its protest and objection but miserably failed to take advantage of such time and opportunity[63] in the DARAB proceedings.

SRRDC also contends that the property is part of a watershed, citing as evidence, the Certification dated June 26, 1991 by the Laguna Lake Development Authority that Barangay Casile is part of the watershed area of the Laguna Lake Basin,[64] and the Final Report for Watershed Area Assessment Study for the Canlubang Estate dated July 1991 undertaken by the Engineering & Development Corporation of the Philippines.[65] It must be noted, however, that these pieces of evidence were likewise brought to record only when petitioner filed its petition for review with the CA. The DARAB never had the opportunity to assess these pieces of evidence.

The DARAB stated:

Noting the absence of evidence which, in the nature of things, should have been submitted by landowner SRRDC and to avoid any claim of deprivation of its right to prove its claim to just compensation (*Uy v. Genato*, 57 SCRA 123). We practically directed its counsel in not only one instance, during the series of hearings conducted, to do so. We even granted continuances to give it enough time to prepare and be ready with the proof and documents. To Our dismay, none was submitted and this constrained Us to take the failure/refusal of SRRDC to present evidence as a waiver or, at least, an implied acceptance of the valuation made by the DAR.[66]

The same goes with the CA, which did not have the discretion to consider evidence in a petition for certiorari or petition for review on certiorari outside than that submitted before the DARAB. The CA noted petitioner's failure to present evidence in behalf of its arguments, thus:

. . . It must be recalled that petitioner Sta. Rosa Realty itself had asked the DARAB in a petition dated March 18, 1991 to allow it 'to adduce evidence in support of its position that the subject parcels of land are not covered by the CARP beginning on the scheduled hearing dated April 4, 1991.' And DARAB obliged as in fact the petitioner commenced to introduce evidence. If petitioner failed to complete the presentation of evidence to support its claim of exemption from CARP coverage, it has only itself to blame for which DARAB cannot be accused of not being impartial.[67]

Consequently, there is no need to order the remand of the case to the DARAB "for re-evaluation and determination of the nature of the parcels of land involved." It runs contrary to orderly administration of justice and would give petitioner undue opportunity to present evidence in support of its stance, an opportunity it already had during the DARAB proceedings, and which opportunity it regrettably failed to take advantage of.

More significantly however, it is the DAR Secretary that originally declared the subject property as falling under the coverage of the CARP.

Moreover, DAR Administrative Order No. 13, Series of 1990 (Rules and Procedure Governing Exemption of Lands from CARP Coverage under Section 10, R.A. No. 6657) provides:

I. LEGAL MANDATE

The general policy under CARP is to cover as much lands suitable for agriculture as possible. However, Section 10, RA 6657 excludes and exempts certain types of lands from the coverage of CARP, to wit:

A. Lands actually, directly and exclusively used and found to be necessary for parks, wildlife, forest reserves,

reforestation, fish sanctuaries and breeding grounds, watersheds and mangroves, national defense, school sites and campuses including experimental farm stations operated by public or private schools for educational purposes, seeds and seedlings research and pilot production centers, church sites and convents appurtenant thereto, mosque sites and Islamic centers appurtenant thereof, communal burial grounds and cemeteries, penal colonies and penal farms actually worked by the inmates, government and private research and quarantine centers; and

...

II. POLICIES

In the application of the aforecited provision of law, the following guidelines shall be observed:

A. For an area in I.A to be exempted from CARP coverage, it must be “actually, directly and exclusively used and found to be necessary” for the purpose so stated.

...

C. Lands which have been classified or proclaimed, and/or actually directly and exclusively used and found to be necessary for parks, wildlife, forest reserves, fish sanctuaries and breeding grounds, and watersheds and mangroves shall be exempted from the coverage of CARP until Congress, taking into account ecological, developmental and equity considerations, shall have determined by law, the specific limits of public domain, as provided for under Sec. 4(a) of RA 6657, and a reclassification of the said areas or portions thereof as alienable and disposable has been approved. (Emphasis supplied)

In order to be exempt from coverage, the land must have been classified or proclaimed and actually, directly and exclusively used and found to be necessary for watershed purposes.[68] In this case, at the time the DAR issued the Notices of Coverage up to the time the DARAB rendered its decision on the dispute, the subject property is yet to be officially classified or proclaimed as a watershed and has in fact long been used for agricultural purposes. SRRDC relies on the case of Central Mindanao University (CMU) vs. DARAB,[69] wherein the Court ruled that CMU is in the best position to determine what property is found necessary for its use. SRRDC claims that it is in the best position to determine whether its properties are “necessary” for development as park and watershed area.[70]

But SRRDC’s reliance on the CMU case is flawed. In the CMU case, the subject property from the very beginning was not alienable and disposable because Proclamation No. 476 issued by the late President Carlos P. Garcia already reserved the property for the use of the school. Besides, the subject property in the CMU case was actually, directly and exclusively used and found to be necessary for educational purposes.

In the present case, the property is agricultural and was not actually and exclusively used for watershed purposes. As records show, the subject property was first utilized for the purposes of the Canlubang Sugar Estate.[71] Later, petitioner claimed that the occupants were allowed to cultivate the area so long as they do not plant crops being grown by the Canlubang Sugar Estate in order to avoid confusion as to ownership thereof.[72] Thus, based on its own assertions, it appears that it had benefited from the fruits of the land as agricultural land. Now, in a complete turnaround, it is claiming that the property is part of a watershed.

Furthermore, in a belated attempt to prove that the subject property is part of a watershed that must be environmentally protected, SRRDC submitted before the Court a Final Report dated February 1994 undertaken by the Ecosystems Research and Development Bureau (ERDB) of the DENR entitled, “Environmental Assessment of the Casile and Kabanga-an River Watersheds.”[73] The study, according to SRRDC, was made pursuant to a handwritten instruction issued by then President Fidel V. Ramos. The study noted that, “the continuing threat of widespread deforestation and unwise land use practices have resulted in the deteriorating condition of the

watersheds.”[74] But the Court also notes the Memorandum for the President dated September 1993 by then DENR Secretary Angel C. Alcala that, after a field inspection conducted by the DENR’s Regional Executive Director and the Provincial and Community Natural Resource Officers, it was found that:

...

- Many bankal trees were found growing in the watershed/CARP areas, including some which have been coppiced, and that water conduits for domestic and industrial uses were found installed at the watershed area claimed by the Yulos. Records further show that in the 1970s, a Private Land Timber Permit was issued to Canlubang Sugar Estate thru its marketing arm, the Sta. Rosa Realty Devpt. Corp.

- Resident farmers denied that they have been cutting bankal trees and volunteered the information that one of the Estates’ security guards was dismissed for cutting and transporting bankal trees. The trees cut by the dismissed security guard were found stacked adjacent to the Canlubang Security Agency’s headquarters.[75]

Evidently, SRRDC had a hand in the degradation of the area, and now wants to put the entire blame on the farmer-beneficiaries. It is reasonable to conclude that SRRDC is merely using “ecological considerations” to avert any disposition of the property adverse to it.

SRRDC also objects to the identification of Amante, et al. as beneficiaries of the subject property. Suffice it to say that under Section 15 of R.A. No. 6657, the identification of beneficiaries is a matter involving strictly the administrative implementation of the CARP, a matter which is exclusively vested in the Secretary of Agrarian Reform, through its authorized offices. Section 15 reads:

SECTION 15. Registration of Beneficiaries. — The DAR in coordination with the Barangay Agrarian Reform Committee (BARC) as organized in this Act, shall register all agricultural lessees, tenants and farmworkers who are qualified to be beneficiaries of the CARP. These potential beneficiaries with the assistance of the BARC and the DAR shall provide the following data:

- (a) names and members of their immediate farm household;
- (b) owners or administrators of the lands they work on and the length of tenurial relationship;
- (c) location and area of the land they work;
- (d) crops planted; and
- (e) their share in the harvest or amount of rental paid or wages received.

A copy of the registry or list of all potential CARP beneficiaries in the barangay shall be posted in the barangay hall, school or other public buildings in the barangay where it shall be open to inspection by the public at all reasonable hours.

Meanwhile, Administrative Order No. 10 (Rules and Procedures Governing the Registration of Beneficiaries), Series of 1989, provides:

SUBJECT: I. PREFATORY STATEMENT

Pursuant to Section 15, Chapter IV, of the Comprehensive Agrarian Reform Law of 1988, the DAR, in coordination with the Barangay Agrarian Reform Committee (BARC), as organized pursuant to RA 6657, shall register all agricultural lessees, tenants and farmworkers who are qualified beneficiaries of the CARP. This Administrative Order provides the Implementing Rules and Procedures for the said registration.

...

B. Specific

1. Identify the actual and potential farmer-beneficiaries of the CARP.

In *Lercana vs. Jalandoni*,^[76] the Court categorically stated that:

... the identification and selection of CARP beneficiaries are matters involving strictly the administrative implementation of the CARP, a matter exclusively cognizable by the Secretary of the Department of Agrarian Reform, and beyond the jurisdiction of the DARAB.^[77]

The farmer-beneficiaries have already been identified in this case. Also, the DAR Secretary has already issued Notices of Coverage and Notices of Acquisition pertaining to the subject property. It behooves the courts to exercise great caution in substituting its own determination of the issue, unless there is grave abuse of discretion committed by the administrative agency,^[78] which in these cases the Court finds none.

SRRDC questions the constitutionality of Section 22 of R.A. No. 6657, which reads in part:

SECTION 22. Qualified Beneficiaries. The lands covered by the CARP shall be distributed as much as possible to landless residents of the same barangay, or in the absence thereof, landless residents of the same municipality in the following order of priority.

- (a) agricultural lessees and share tenants;
- (b) regular farmworkers;
- (c) seasonal farmworkers;
- (d) other farmworkers;
- (e) actual tillers or occupants of public lands;
- (f) collectives or cooperatives of the above beneficiaries; and
- (g) others directly working on the land.

...

SRRDC argues that Section 22 “sweepingly declares landless residents as beneficiaries of the CARP (to mean also squatters),” in violation of Article XIII, Section 4 of the Constitution, which aims to benefit only the landless farmers and regular farmworkers.^[79]

The Court cannot entertain such constitutional challenge. The requirements before a litigant can challenge the constitutionality of a law are well-delineated, viz.:

- (1) The existence of an actual and appropriate case;
- (2) A personal and substantial interest of the party raising the constitutional question;
- (3) The exercise of judicial review is pleaded at the earliest opportunity; and
- (4) The constitutional question is the *lis mota* of the case.^[80] (Emphasis supplied)

Earliest opportunity means that the question of unconstitutionality of the act in question should have been immediately raised in the proceedings in the court below,^[81] in this case, the DAR Secretary. It must be pointed out that all controversies on the implementation of the CARP fall under the jurisdiction of the DAR, even though they raise questions that are also legal or constitutional in nature.^[82] The earliest opportunity to raise a constitutional issue is to raise it in the pleadings before a competent court that can resolve the same, such that, “if it is not raised in the pleadings, it cannot be considered at the trial, and, if not considered at the trial, it cannot be considered on appeal.”^[83] Records show that SRRDC raised such constitutional challenge only before this Court despite the fact that it had the opportunity to do so before the DAR Secretary. The DARAB correctly refused to deal on this issue as it is the DAR Secretary who, under the law, has the authority to determine the beneficiaries of the CARP. This Court will not entertain questions on the invalidity of a statute where that issue was not specifically raised, insisted upon, and adequately argued^[84] in the DAR.

Likewise, the constitutional question raised by SRRDC is not the very *lis mota* in the present case. Basic is the rule that every law has in its favor the presumption of constitutionality, and to justify its nullification, there must be a clear and unequivocal breach of the Constitution, and not one that is doubtful, speculative or argumentative.[85] The controversy at hand is principally anchored on the coverage of the subject property under the CARP, an issue that can be determined without delving into the constitutionality of Section 22 of R.A. No. 6657. While the identification of Amante, et al. as farmer-beneficiaries is a corollary matter, yet, the same may be resolved by the DAR.

SRRDC questions the DARAB's jurisdiction to entertain the question of whether the subject property is subject to CARP coverage.

According to SRRDC, such authority is vested with the DAR Secretary who has the exclusive prerogative to resolve matters involving the administrative implementation of the CARP and agrarian laws and regulations.[86]

There is no question that the power to determine whether a property is subject to CARP coverage lies with the DAR Secretary. Section 50 of R.A. No. 6657 provides that:

SEC. 50. Quasi-Judicial Powers of the DAR. - The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).

...

The DAR's jurisdiction under Section 50 of R.A. No. 6657 is two-fold. The first is essentially executive and pertains to the enforcement and administration of the laws, carrying them into practical operation and enforcing their due observance, while the second is judicial and involves the determination of rights and obligations of the parties.[87]

Pursuant to its judicial mandate of achieving a just, expeditious and inexpensive determination of every action or proceeding before it,[88] the DAR adopted the DARAB Revised Rules, Rule II (Jurisdiction of the Adjudication Board) of which provides:

SECTION 1. Primary, Original and Appellate Jurisdiction. – The Agrarian Reform Adjudication Board shall have primary jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes, cases, controversies, and matters or incidents involving the implementation of the Comprehensive Agrarian Reform Program under Republic Act No. 6657, Executive Order Nos. 229, 228 and 129-A, Republic Act No. 3844 as amended by Republic Act No. 6389, Presidential Decree No. 27 and other agrarian laws and their implementing rules and regulations.

Specifically, such jurisdiction shall extend over but not be limited to the following:

- a) Cases involving the rights and obligations of persons engaged in the cultivation and use of agricultural land covered by the Comprehensive Agrarian Reform Program (CARP) and other agrarian laws;
- b) Cases involving the valuation of land, and determination and payment of just compensation, fixing and collection of lease rentals, disturbance compensation, amortization payments, and similar disputes concerning the functions of the Land Bank;
- c) Cases involving the annulment or cancellation of orders or decisions of DAR officials other than the Secretary, lease contracts or deeds of sale or their amendments under the administration and disposition of the DAR and LBP;

- d) Cases arising from, or connected with membership or representation in compact farms, farmers' cooperatives and other registered farmers' associations or organizations, related to land covered by the CARP and other agrarian laws;
- e) Cases involving the sale, alienation, mortgage, foreclosure, pre-emption and redemption of agricultural lands under the coverage of the CARP or other agrarian laws;
- f) Cases involving the issuance of Certificate of Land Transfer (CLT), Certificate of Land Ownership Award (CLOA) and Emancipation Patent (EP) and the administrative correction thereof;
- g) And such other agrarian cases, disputes, matters or concerns referred to it by the Secretary of the DAR.

Provided, however, that matters involving strictly the administrative implementation of the CARP and other agrarian laws and regulations, shall be the exclusive prerogative of and cognizable by the Secretary of the DAR. (Emphasis supplied)

On the other hand, Administrative Order No. 06-00,[89] which provides for the Rules of Procedure for Agrarian Law Implementation (ALI) Cases, govern the administrative function of the DAR. Under said Rules of Procedure, the DAR Secretary has exclusive jurisdiction over classification and identification of landholdings for coverage under the CARP, including protests or oppositions thereto and petitions for lifting of coverage. Section 2 of the said Rules specifically provides, inter alia, that:

SECTION 2. Cases Covered. - These Rules shall govern cases falling within the exclusive jurisdiction of the DAR Secretary which shall include the following:

- (a) Classification and identification of landholdings for coverage under the Comprehensive Agrarian Reform Program (CARP), including protests or oppositions thereto and petitions for lifting of coverage;
- (b) Identification, qualification or disqualification of potential farmer-beneficiaries;
- (c) Subdivision surveys of lands under CARP;
- (d) Issuance, recall or cancellation of Certificates of Land Transfer (CLTs) and CARP Beneficiary Certificates (CBCs) in cases outside the purview of Presidential Decree (PD) No. 816, including the issuance, recall or cancellation of Emancipation Patents (EPs) or Certificates of Land Ownership Awards (CLOAs) not yet registered with the Register of Deeds;
- (e) Exercise of the right of retention by landowner; . . . (Emphasis supplied)

Thus, the power to determine whether a property is agricultural and subject to CARP coverage together with the identification, qualification or disqualification of farmer-beneficiaries lies with the DAR Secretary.[90]

Significantly, the DAR had already determined that the properties are subject to expropriation under the CARP and has distributed the same to the farmer-beneficiaries.

Initially, the LBP forwarded the two Compulsory Acquisition Claim Folders (CACF) covering the subject properties to the DARAB for summary proceedings for the sole purpose of determining just compensation. SRRDC then sent a letter to the LBP claiming that the subject properties were exempt from CARP coverage and subject of a pending petition for land conversion. As a consequence, the DARAB asked the DAR Secretary to first resolve the issues raised by SRRDC before it can proceed with the land valuation proceedings. In response, the DAR, through the Undersecretary for Operations and the Regional Director of Region IV, submitted its report stating that: (1) the property is subject to compulsory acquisition by virtue of the Notice of Coverage issued on August 11, 1989, and Notice of Acquisition issued on December 12, 1989, and that it was subject to CARP coverage per Section IV D of DAR Administrative Order No. 1, Series of 1990; and (2) there was no pending

petition for land conversion involving the subject property. When SRRDC petitioned the DARAB to resolve the issue of exemption from coverage, it was only then that the DARAB took cognizance of said issue.[91]

As the DARAB succinctly pointed out, it was SRRDC that initiated and invoked the DARAB's jurisdiction to pass upon the question of CARP coverage. As stated by the DARAB:

4.5.2.2. The ISSUE ON CARP COVERAGE was initiated and incorporated in said proceeding, at the instance of petitioner itself, by filing a petition dated March 18, 1991, ... Prayed therein were that DARAB:

- Take cognizance and assume jurisdiction over the question of CARP coverage of the subject parcels of land;
- Defer or hold in abeyance the proceedings for administrative valuation of the subject properties pending determination of the question of CARP coverage;
- Allow respondent SRRDC to adduce evidence in support of its position that the subject parcels of land are not covered by the CARP beginning on the scheduled hearing date of April 4, 1991" (p.3; emphasis and underscoring supplied).

Upon persistent request of petitioner SRRDC, it was accommodated by DARAB and a counsel of SRRDC even took the witness stand. Its lawyers were always in attendance during the scheduled hearings until it was time for SRRDC to present its own evidence.

4.5.2.3. But, as earlier stated, despite the open session proddings by DARAB for SRRDC to submit evidence and the rescheduling for, allegedly, they are still collating the evidence, nay, the request that it be allowed to adduce evidence, none was adduced and this constrained public respondent to declare SRRDC as having waived its right to present evidence. And, after the remaining parties were heard, the hearing was formally terminated.

...

4.5.3. Needless to state, the jurisdictional objection (CARP coverage), now being raised herein was not one of the original matters in issue. Principally, DARAB was called upon under Section 16 of Republic Act No. 6657 to resolve a land valuation case. But SRRDC itself insisted that DARAB should take cognizance thereof in the same land valuation proceeding. And, SRRDC, through its lawyers, actively participated in the hearings conducted.

4.5.4. It was only when an adverse decision was rendered by DARAB that the jurisdictional issue was raised in the petition for review it filed with the Honorable Court of Appeals. It was also only then that petitioner presented proof/evidence.

...

4.5.6. Public respondents (DAR/DARAB) are not unmindful of the rule that matter of jurisdiction may be raised at any stage of the proceeding. But for two serious considerations, the applicability thereof in the case at bar should not be allowed.

4.5.6.1. The fact [part (municipal/industrial) and/or watershed] upon which the jurisdictional issue interchangeably hinges were not established during the hearing of the case. No proof was adduced. That the matter of CARP coverage is strictly administrative implementation of CARP and, therefore, beyond the competence of DARAB, belonging, as it does, to the DAR Secretary, was not even alleged, either before DARAB or the Honorable Court of Appeals, the numerous petitions/incidents filed notwithstanding. Be it that as it may, the records of the case show that initially DARAB refused to take cognizance thereof and, in fact, forwarded the issue of CARP coverage to the office of the DAR Secretary. It was only when it was returned to DARAB by said office that proceedings thereon commenced pursuant to Section 1(g) of Rule II of the DARAB Revised Rules of Procedure.

4.5.6.2. Petitioner is now estopped from assailing the jurisdiction of DARAB. First, it expressly acknowledged the same, in fact invoked it, when it filed its petition (Annex “4”); and, second, during the scheduled hearings, SRRDC, through its counsel, actively participated, one of its counsel (sic) even testifying. It may not now be allowed to impugn the jurisdiction of public respondent ...[92] (Emphasis supplied)

In CA-G.R. SP No. 27234, the CA likewise found that it was SRRDC that called upon the DARAB to determine the issue and it, in fact, actively participated in the proceedings before it.[93] It was SRRDC’s own act of summoning the DARAB’s authority that cured whatever jurisdictional defect it now raises. It is elementary that the active participation of a party in a case pending against him before a court or a quasi-judicial body, is tantamount to a recognition of that court’s or body’s jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court’s or body’s jurisdiction.[94]

Moreover, the issue of jurisdiction was raised by SRRDC only before the CA. It was never presented or discussed before the DARAB for obvious reasons, i.e., it was SRRDC itself that invoked the latter’s jurisdiction. As a rule, when a party adopts a certain theory, and the case is tried and decided upon that theory in the court below, he will not be permitted to change his theory on appeal.[95] Points of law, theories, issues and arguments not brought to the attention of the lower court need not be, and ordinarily will not be, considered by a reviewing court, as these cannot be raised for the first time at such late stage.[96] To permit SRRDC to change its theory on appeal would not only be unfair to Amante, et al. but would also be offensive to the basic scales of fair play, justice and due process.[97]

Finally, the Court notes that then DAR Secretary Benjamin T. Leong issued a Memorandum on July 11, 1991, ordering the opening of a trust account in favor of SRRDC. In *Land Bank of the Philippines vs. Court of Appeals*, this Court struck down as void DAR Administrative Circular No. 9, Series of 1990, providing for the opening of trust accounts in lieu of the deposit in cash or in bonds contemplated in Section 16 (e) of R.A. No. 6657. As a result, the DAR issued Administrative Order No. 2, Series of 1996, converting trust accounts in the name of landowners into deposit accounts.[98] Thus, the trust account opened by the LBP per instructions of DAR Secretary Benjamin T. Leong should be converted to a deposit account, to be retroactive in application in order to rectify the error committed by the DAR in opening a trust account and to grant the landowners the benefits concomitant to payment in cash or LBP bonds prior to the ruling of the Court in *Land Bank of the Philippines vs. Court of Appeals*. The account shall earn a 12% interest per annum from the time the LBP opened a trust account up to the time said account was actually converted into cash and LBP bonds deposit accounts.

Given the foregoing conclusions, the petition filed in G.R. No. 118838, which primarily rests on G.R. No. 112526, should be granted.

The judgments of the trial court in the injunction case (Civil Case No. B-2333) and the CA in CA-G.R. SP No. 38182 were premised on SRRDC’s transfer certificates of title over the subject property. The trial court and the CA cannot be faulted for denying the writ of injunction prayed for by Amante, et al. since at the time the trial court rendered its decision in the injunction case on January 20, 1992, SRRDC was still the holder of the titles covering the subject property. The titles in its name were cancelled and corresponding TCTs were issued in the name of the Republic of the Philippines on February 11, 1992, and CLOAs were issued to the farmer-beneficiaries on February 26, 1992. When Amante, et al., in their motion for reconsideration filed in CA-G.R. SP No. 38182, brought to the CA’s attention the issuance of the CLOAs, the CA, per Resolution dated January 19, 1995, reiterated its ruling that “whether or not the subject property is covered by the Comprehensive Agrarian Reform Law (R.A. No. 6657) is the subject matter of a separate case, and we cannot interfere with the same at the present time.” The CA further stated that “(O)ur present decision is, therefore, not intended to preempt any judgment or prejudice the right of any party in the said case.”[99] It must be noted that at that

juncture, the DARAB Decision and the CA decision in CA-G.R. SP No. 27234, finding the subject property covered by the CARP Law, is yet to be finally resolved by this Court in G.R. No. 112526 and in fact, a temporary restraining order was issued by the Court on December 15, 1993, enjoining the DARAB from enforcing the effects of the CLOAs. Amante, et al. was likewise restrained from further clearing the subject property.[100] Hence, the decision of the trial court and the CA denying the writ of injunction was warranted.

Nevertheless, considering that the subject property is agricultural and may be acquired for distribution to farmer-beneficiaries identified by the DAR under the CARP, the transfer certificates of title issued in the name of the Republic of the Philippines and the CLOAs issued by the DAR in the names of Amante, et al.,[101] are valid titles and therefore must be upheld. By virtue thereof, Amante, et al. who have been issued CLOAs are now the owners of the subject property. Consequently, the decisions of the trial court in the injunction case and the CA in CA-G.R. SP No. 38182 must now be set aside, insofar as it orders Amante, et al. to vacate and/or enjoins them from entering the subject property.

The Court, however, agrees with the CA that Amante, et al. is not entitled to actual, moral and exemplary damages, as well as attorney's fees. SRRDC's right of possession over the subject property was predicated on its claim of ownership, and it cannot be sanctioned in exercising its rights or protecting its interests thereon. As was ruled by the CA, Amante, et al. is merely entitled to nominal damages as a result of SRRDC's acts.[102]

All is not lost in this case. In its Memorandum dated September 29, 1993, to the DAR Secretary, the DENR manifested that:

. . . the farmers themselves could be tapped to undertake watershed management and protection. This community-based approach in natural resource management, is in fact, being used in numerous watershed management projects nationwide. Adopting the same approach in the area is deemed the best possible solution to the case since it will not prejudice the CLOAs issued to the farmer-beneficiaries. They should, however, be required to undertake the necessary reforestation and other watershed management/rehabilitation measures in the area.

In view of the foregoing, we recommend that a watershed management plan for the area espousing the community-based approach be drawn-up jointly by the DAR and DENR. . . .[103]

If SRRDC sincerely wants to preserve the property for ecological considerations, it can be done regardless of who owns it. After all, we are all stewards of this earth, and it rests on all of us to tend to it.

WHEREFORE, the Second Motion for Reconsideration is GRANTED. The Court's Decision dated October 12, 2001 in G.R. No. 112526 is SET ASIDE and the Decision of the Court of Appeals dated November 5, 1993 in CA-G.R. SP No. 27234 is AFFIRMED with MODIFICATION, in that the Land Bank of the Philippines is ordered to convert the trust account in the name of Sta. Rosa Realty Development Corporation to a deposit account, subject to a 12% interest per annum from the time the LBP opened a trust account up to the time said account was actually converted into cash and LBP bonds deposit accounts. The temporary restraining order issued by the Court on December 15, 1993, is LIFTED.

The petition filed by Amante, et al. in G.R. No. 118838 is GRANTED in that Sta. Rosa Realty Development Corporation is hereby ENJOINED from disturbing the peaceful possession of the farmer-beneficiaries with CLOAs. The Decision of the Court of Appeals dated June 28, 1994 in CA-G.R. CV No. 38182 is AFFIRMED insofar as the award of nominal damages is concerned.

The Department of Environment and Natural Resources and the Department of Agrarian Reform, in coordination with the farmer-beneficiaries identified by the DAR, are URGED to formulate a community-based watershed plan for the management and rehabilitation of Barangay Casile.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Corona, and Carpio-Morales, JJ., concur.

[1] Rollo, G.R. No. 112526, p. 1688.

[2] Id., pp. 7122-7123.

[3] Id., p. 576.

[4] After the second Motion for Reconsideration was submitted for resolution together with G.R. No. 118838, several pleadings in connection with the case were filed, the latest of which was the Writ of Supplementary Pleadings with Attachment, Etc. filed by Administrator Francisco C. Nieto on February 11, 2005.

[5] Records, Civil Case No. B-2333, G.R. No. 118838, pp. 153-158; Amended Complaint, pp. 2-8.

[6] Id., pp. 231-235; Amended Answer, pp. 4-8.

[7] Id., pp. 631-635.

[8] Id., pp. 427-428.

[9] Records, Civil Case No. B-2333, G.R. No. 118838, pp. 1066-1067; Decision, pp. 13-14.

[10] Penned by Associate Justice Hector L. Hofileña, with Associate Justices Pedro A. Ramirez (ret.) and Cancio C. Garcia (now a Member of this Court), concurring.

[11] Rollo, G.R. No. 118838, p. 34; Decision, p. 7.

[12] Id., pp. 32-33.

[13] See pp. 13-14.

[14] Rollo, G.R. No. 118838, pp. 38-39; Resolution, pp. 2-3.

[15] Id., p. 17; Petition, p. 11.

[16] Rollo, G.R. No. 118838, pp. 274-275; Decision dated May 24, 1991, pp. 1-2.

[17] Id., p. 275; Id., p. 2.

[18] Rollo, G.R. No. 118838, pp. 233-235.

[19] See Decision, Annex “Q,” Rollo, G.R. No. 118838, pp. 288-305.

[20] Id., pp. 296-297.

[21] Rollo V, G.R. No. 112526, p. 1408, Private Respondents’ Memorandum.

[22] Rollo I, G.R. No. 112526, p. 55, Annex “A.”

[23] Id., pp. 56-57, Annex “C.”

[24] Id., pp. 542-547; Decision dated October 12, 2001 in G.R. No. 112526, pp. 5-10.

[25] DARAB Records, Folder V, pp. 50-51.

[26] Rollo I, G.R. No. 112526, pp. 174-179.

[27] Id., p. 14; Petition, p. 13; pp. 180-194; Rollo, G.R. No. 118838, pp. 355-367.

- [28] CA Rollo, CA-G.R. SP No. 27234, p. 529; Decision, p. 31.
- [29] Rollo I, G.R. No. 112526, pp. 16-17.
- [30] Rollo I, G.R. No. 112526, p. 569; Decision, p. 32.
- [31] Id., p. 568.
- [32] Ibid.
- [33] Id., pp. 1412-1413.
- [34] Id., pp. 1400-1401.
- [35] Id., p. 1446.
- [36] Rollo I, G.R. No. 112526, p. 7.
- [37] Republic of the Philippines vs. Court of Appeals, G.R. No. 129846. January 18, 2000, 322 SCRA, 81, 87.
- [38] Rollo I, G.R. No. 112526, Petition, pp. 20-37.
- [39] Id., pp. 37-43.
- [40] New Sampaguita Builders Construction, Inc. vs. Philippine National Bank, G.R. No. 148753, July 30, 2004; Baricuatro vs. Court of Appeals, G.R. No. 105902. February 9, 2000, 325 SCRA 137, 145.
- [41] DARAB Decision, pp. 41-44.
- [42] DARAB Records, Vol. VI, Exhibit “A”.
- [43] Id., Exhibits “B”, “B-1” and “B-2”.
- [44] Id., Exhibit “C”.
- [45] Id., Exhibits “D” to “AA”.
- [46] CA Rollo, CA-G.R. SP No. 27234, p. 126, Exhibit “1”.
- [47] Id., p. 127, Exhibit “2”.
- [48] TSN, April 15, 1991; DARAB Records, Vol. IV, Exhibits “6-AA” to “6-Q”.
- [49] Section 20, Republic Act No. 7160 (Local Government Code); Memorandum Circular 54, series of 1993, Office of the President.
- [50] Article III (Zoning Districts), Section 1.
- [51] No. L-65928, June 21, 1988, 162 SCRA 390.
- [52] Id., p. 396.
- [53] Rollo, G.R. No. 11838, Memorandum for Respondents, p. 625.
- [54] Exhibit “5”, Folder of Exhibits.
- [55] G.R. No. 103302, August 12, 1993, 225 SCRA 278.
- [56] Rollo V, G.R. No. 112526, pp. 1703-1710.

- [57] Id., pp. 1703-1710.
- [58] Paragraph E, DAR Administrative Order No. 13.
- [59] Folder of Exhibits, Exhibit “B.”
- [60] Id., Exhibit “B-1.”
- [61] Id., Exhibit “B-2.”
- [62] CA Rollo, CA-G.R. SP No. 27234, Annex “A”, p. 178.
- [63] TSN, April 4, 1991, p. 40; July 3, 1991, p. 9.
- [64] Id., Annex “J”, p. 179.
- [65] Id., Annex “K”, p. 180 et seq.
- [66] DARAB Decision, p. 1836.
- [67] CA decision in CA-G.R. SP No. 27234, p. 1858.
- [68] See DAR vs. DECS, G.R. No. 158228, March 23, 2004.
- [69] G.R. No. 100091, October 22, 1992, 215 SCRA 86.
- [70] Rollo I, G.R. No. 112526, p. 32; Petition for Review, p. 31.
- [71] Exhibit “5”, Folder of Exhibits.
- [72] Rollo, G.R. No. 11838, Memorandum for Respondents, p. 625.
- [73] Rollo II, G.R. No. 112526, pp. 535-619.
- [74] Id., p. 543.
- [75] Id., p. 532.
- [76] G.R. No., 132286, February 1, 2002, 375 SCRA 604.
- [77] Id., at pp. 612-613.
- [78] DAR vs. DECS, G.R. No. 158228, March 23, 2004, 426 SCRA 217, 224.
- [79] Rollo I, G.R. No. 112526, pp. 41-42.
- [80] La Bugal-Balaan Tribal Association, Inc. v. Ramos, G.R. No. 127882. January 27, 2004, 421 SCRA 148, 177.
- [81] Arceta v. Mangrobang, G.R. Nos. 152895 and 153151, June 15, 2004.
- [82] DAR v. Cuenca, G.R. No. 154112, September 23, 2004.
- [83] Matibag vs. Benipayo, G.R. No. 149036, April 2, 2002, 380 SCRA 49, 65.
- [84] Supra. Arceta case.
- [85] Ibid.
- [86] Rollo I, G.R. No. 112526, pp. 43-45.

- [87] Cabral vs. Court of Appeals, G.R. No. 101974, July 12, 2001, 361 SCRA 122, 136.
- [88] Section 50, R.A. No. 6657, second paragraph.
- [89] Issued on August 30, 2000.
- [90] Roxas & Co., Inc. v. Court of Appeals, G.R. No. 127876, December 17, 1999, 321 SCRA 106.
- [91] See Decision in G.R. No. 112526 dated October 12, 2001, pp. 7-9.
- [92] Rollo I, G.R. No. 112526, pp. 378-381.
- [93] CA Rollo, CA-G.R. SP No. 27234, Decision, p. 25.
- [94] Lapanday Agricultural & Development Corp. vs. Estita, G.R. No. 162109, January 21, 2005; Centeno vs. Centeno, G.R. No. 140825, October 13, 2000, 343 SCRA 153, 159.
- [95] BA Finance Corporation vs. Court of Appeals, G.R. No. 82040, August 27, 1991, 201 SCRA 157, 164.
- [96] Philippine Ports Authority vs. City of Iloilo, G.R. No. 109791, July 14, 2003, 406 SCRA 88, 93.
- [97] Id., BA Finance Corporation case; Philippine Ports Authority case.
- [98] Landbank of the Philippines vs. Wycoco, G.R. No. 140160, January 13, 2004, 419 SCRA 67.
- [99] Rollo, G.R. No. 118838, p. 38.
- [100] Id., pp. 296-300.
- [101] Id., pp. 355-367.
- [102] Id., p. 34.
- [103] Rollo I, G.R. No. 112526, p. 225.

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