OFFICE OF THE PRESIDENT, MALACAÑANG, MANILA, THROUGH SENIOR DEPUTY EXECUTIVE SECRETARY LEONARDO A. QUISUMBING, HONORABLE BENJAMIN T. LEONG, SECRETARY OF THE DEPARTMENT OF AGRARI...

G.R. No. 131216. July 19, 2001

Ponente: PARDO, J.

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PARDO, J.:

Appeal via certiorari from the decision of the Court of Appeals[1] ruling that the farmland of the heirs of Jose T. Reyes (hereafter, "Reyes") consisting of 2.5 hectares situated at Gapan, Nueva Ecija, which was his share in the original twenty four (24) hectare landholding of his late mother, was not included within the coverage of Operation Land Transfer under R. A. No. 6657.

The facts, as found by the Court of Appeals, are as follows:

> "During her lifetime, the late Aurora Tinio-Reyes, mother of the petitioner, Jose T. Reyes (substituted by his heirs upon his death), owned several parcels of land consisting of twenty-four (24) hectares, more or less, situated at Gapan, Nueva Ecija. On 29 June 1977, Aurora Tinio-Reyes died testate. A last will and testament which she executed on 19 December 1971 was admitted to probate on 12 January 1973. An Order granting Letters Testamentary was issued on 24 November 1977. In said will, the testator bequeathed to her nine (9) children several parcels of land consisting of twenty-four (24) hectares, more or less, situated at Gapan, Nueva Ecija.
>
> "On 8 September 1978, a Project of Partition was executed by and among the surviving heirs. In the Project of Partition, a parcel of land covered by T.C.T. No. NT-110703 was assigned to the petitioner. Thus, the distribution of Aurora Tinio-Reyes' land were as follows:
>
> "T.C.T. No. NT-110703 - Jose T. Reyes
>
> "T.C.T. No. NT-110704 - Manuel T. Reyes
>
> "T.C.T. No. NT-110705 - Luz Reyes Quiogue
>
> "T.C.T. No. NT-110706 - Felicidad Reyes-Gonzales
>
> "T.C.T. No. NT-110707 - Lydia Reyes-Buencamino
>
> "T.C.T. No. NT-110708 - Anita Reyes-Inciona
>
> "T.C.T. No. NT-110709 - Alicia Reyes-Maceda
>
> "T.C.T. No. NT-110710 - Josefina Reyes-Fajardo
>
> "T.C.T. No. NT-110711 - Aurora Reyes-Mariano

> "Subsequently, the Probate Court issued an order closing the administration of the estate. During the probate proceedings of the testator's will, no one contested or challenged the said will.
>
> "On 28 February 1979, the petitioner's brother, Manuel T. Reyes, was issued T.C.T. No. NT-158798. From the said parcel of land, there were three transfer certificates of title which were issued. Two portions of the subdivided parcel of land, (T.C.T. No. NT-161175 and T.C.T. No. NT-161176), were sold to one Francisco L. Buena, while the other portion covering T.C.T. No. NT-167714 was sold to Apolonio Crisostomo.
>
> "Following his brother's example, the petitioner requested from the Register of Deeds of Cabanatuan City the issuance of a new transfer certificate of title in his name. However, as a pre-requisite to the issuance of a new certificate, a clearance from the Department of Agrarian Reform attesting to the non-inclusion of the land in the Operation Land Transfer was required. In the meantime, petitioner's sister, Josefina Reyes-Fajardo, entered into a tenancy agreement ("KASUNDUAN") with her tenants on September 30, 1988.
>
> "In February 1991, Josefina Fajardo received a letter from the Municipal Agrarian Reform Officer which stated, inter alia, that: "Ayon po sa aming talan, ang lupang palayan na inyong pag-aari ay nasasakupan ng "Operation Land Transfer." It further stated that those who failed to exercise their right of retention as of 25 August 1985, may retain five (5) hectares. On the other hand, in response to the request of the petitioner for clearance or certification, the Provincial Agrarian Reform Office of Cabanatuan City issued his investigation Report and Recommendation to wit:
> "In resume therefore, it is respectfully recommended that the landholding of Josefina Reyes-Fajardo in her behalf and also in behalves (sic) of her sisters will remain as not covered by Operation Land Transfer (OLT) in view of the "Kasunduan" dated September 30, 1988, whereby they bind themselves that R. A. 6657 will be the law to be enforced upon them, while the landholding of Jose T. Reyes will remain as under Operation Land Transfer.
>
> "December 16, 1988.

"The petitioner took exception to the recommendation of the Provincial Agrarian Reform Office and appealed to the Department of Agrarian Reform.

"On 26 March 1990, the petitioner was issued twelve (12) new transfer certificates of title, specifically, T.C.T. Nos. NT-211948 to NT-211959.

"On 29 August 1991, the respondent Secretary rendered the assailed Order sustaining the recommendation of the Provincial Agrarian Reform Office of Nueva Ecija. The Last Will and Testament not being registered prior to October 21, 1972 when P. D. No. 27 took effect, the respondent Secretary held that it did not bind third persons, much less the DAR, when the latter placed the 24 hectares of land owned by the deceased Aurora Tinio-Reyes under Operation Land Transfer. The said Order directed the immediate generation of the Emancipation Patents and their distribution."[2]

On January 7, 1994, Jose T. Reyes elevated the case to the Court of Appeals via petition for review.[3]

After due proceedings, on October 21, 1997, the Court of Appeals promulgated its decision reversing the decision of the Office of the President,[4] the dispositive portion of which reads:

> "WHEREFORE, the petition is GRANTED. The respondents are hereby ORDERED to GRANT the petitioner the corresponding certification of non-inclusion in the Operation Land Transfer.
>
> "SO ORDERED."

Hence, this appeal.[5]

The issue raised is whether the respondent heirs' 2.5 hectare farmland, originally part of the estate of their

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deceased grandmother, consisting of twenty four (24) hectares, is covered by Operation Land Transfer under R. A. No. 6657, or P. D. No. 27.

We agree with the ruling of the Court of Appeals that the respondent heirs' farmland is not covered by Operation Land Transfer of the Comprehensive Agrarian Reform Law (CARL), R. A. No. 6657, or by P. D. No. 27.

There is no doubt that the original landholding of respondents' predecessor in interest, consisting of twenty four (24) hectares of riceland tenanted by farmers was covered by P. D. No. 27. Handwritten by President Marcos in October 1972, after he seized political power by declaring martial law throughout the country,[6] the decree declared "the emancipation of all tenant farmers" of private agriculture lands primarily devoted to rice and corn.

However, the expropriation of the landholding did not take place on the effectivity of P. D. No. 27 on October 21, 1972. The seizure would take effect on the payment of just compensation, judicially determined.[7]

The Department of Agrarian Reform, as of August 29, 1991, when it decreed the coverage of the landholding in question under CARL (R. A. No. 6657) had not paid or even determined the just compensation for the taking of the landholding.[8]

Meantime, the original landowner died on June 29, 1977. Her nine (9) children inherited the land as her heirs. Now, the landholding consists of only 2.5 hectares for each heir. The size is decidedly within the retention area of seven (7) hectares under P. D. No. 27, or five (5) hectares under R. A. No. 6657.

WHEREFORE, the Court denies the petition and affirms the decision of the Court of Appeals.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] In CA-G. R. SP No. 32884, promulgated on October 21, 1997, Verzola, E., J., ponente, Gonzaga-Reyes, M. (now Associate Justice, Supreme Court) and Demetria, J., concurring.

[2] Petition, Annex "A", Rollo, pp. 35-44, at pp. 35-38.

[3] Docketed as CA-G. R. SP No. 32884, Rollo, pp. 61-72.

[4] In O. P. Case No. 4727, Decision, dated November 17, 1993. Through Senior Deputy Executive Secretary Leonardo A. Quisumbing, now Associate Justice, Supreme Court.

[5] Petition for Review on Certiorari, filed on December 18, 1997, Rollo, pp. 18-34. On February 7, 2000, we gave due course to the petition, Rollo, pp. 97-98.

[6] Proc. No. 1081, dated September 21, 1972.

[7] Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform, 175 SCRA 343 [1989]; Roxas & Co., Inc.v. Court of Appeals, 321 SCRA 106 [1999].

[8] Petition, Annex "X", CA Rollo, pp. 81-83.

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