

**ALEJANDRO DANAN, TIRSO LINGAD, JR., AMADO BELLEZA,
CARLITO SANTOS, LADISLAO DANAN, RUBEN SAMBAT, RODRIGO
DANAN, ABEDNIDO DANAN, FELIX ESCUETA, ROMEO TALA,
ADELOMO BALUYOT, PEDRO...**

G.R. NO. 132759. October 25, 2005

Ponente: TINGA, J.

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TINGA, J.:

This deals with two separate Rule 45 petitions, later consolidated, filed by the Department of Agrarian Reform Adjudication Board ("DARAB") and Alfredo Danan, et al. Both petitions seek the reversal of the Court of Appeals' Decision in CA-G.R. SP No. 33796, which reversed and set aside the DARAB Decision in DARAB Case No. 1551 and its Resolution denying petitioners' motion for reconsideration.

Petitioners ("private petitioners") in G.R. No. 132759 are all residents of Lubao, Pampanga, claiming to be cultivating a vast landholding owned by the heirs of Teodorica Reinales Arrastia, Leticia Arrastia Montenegro and Juanita Arrastia ("Arrastia heirs"). Said property has an aggregate area of approximately three hundred (300) hectares and is situated at the Barangays of Lourdes, Baruya, and San Isidro, all within the Municipality of Lubao, Pampanga. The records of the case show that the landholding had been subdivided and distributed among the Arrastia heirs and the corresponding certificates of titles issued accordingly.

Petitioner in G.R. No. 132866 is the DARAB, the adjudication arm of the Department of Agrarian Reform ("DAR") that is tasked to implement the government's comprehensive agrarian reform program ("CARP").

The common respondent in both petitions is Estrella Arrastia, one of the Arrastia heirs and a co-owner of the disputed property. Respondent Arrastia own 4.4630 hectares of the disputed property.

The factual antecedents are as follows:

Sometime in 1976, a certain Rustico Coronel leased the subject property for a period of twelve (12) years or until the crop year 1987 to 1988.[1] On September 27, 1986, persons claiming to be farmers and residents of Barangay Lourdes and Barangay San Rafael signed a joint resolution as members of the Aniban ng mga Manggagawa sa Agrikultura ("AMA") to enter and lease the subject property from the Arrastia heirs. Then Pampanga Governor Brien Guiao favorably endorsed the resolution to then Minister of Environment and Natural Resources Heherson Alvarez. On the basis of said resolution but without the consent of the landowners, the AMA members, who are herein petitioners, entered the disputed land, cleared portions thereof and planted various crops thereon. This culminated in a violent confrontation on May 21, 1988 that led to the filing of criminal charges against AMA members.[2]

On June 2, 1988, the AMA filed a complaint with petitioner DARAB, docketed as DARAB Case No. 0001, praying that respondent Arrastia be prevented from destroying standing crops on the disputed property and from fencing said property and that petitioners be allowed to continue with their farming thereon. On August 15, 1988,

the DARAB ordered the DAR Regional Director to conduct an ocular inspection on the disputed property.[3] The inspection team submitted an Ocular/Investigation Report with the observation that there were no substantially significant plantings on the disputed property. The Municipal Agrarian Reform Officer ("MARO") of Lubao, Pampanga also submitted a report dated September 21, 1989, recommending the disqualification of private petitioners from availing of the benefits under the CARP.[4]

On October 5, 1988, the DARAB issued an order denying AMA's motion for authority to cultivate. The order became final and executory on July 29, 1989, after the DARAB denied AMA's motion for reconsideration.[5]

On behalf of her co-heirs and co-owners, Arrastia instituted an action against private petitioners for violation of Section 73(b) of Republic Act (R.A.) No. 6657 on October 9, 1989. Arrastia's complaint, docketed as Agrarian Case No. 2000, was raffled to Branch 48 of the Regional Trial Court of San Fernando, Pampanga on October 9, 1989. The trial court, sitting as a special agrarian court ("SAC"), issued a temporary restraining order, and subsequently a preliminary injunction, both enjoining private petitioners from entering and cultivating the disputed property.

On November 29, 1989, private petitioners filed a complaint for injunction and damages before the Provincial Agrarian Reform Adjudication Board ("PARAD") against Arrastia, alleging that they were actual tillers of the disputed property who were forcibly evicted by Arrastia from their tenanted lots through the use of armed men. In their complaint, docketed as DARAB Regional Case No. 161-P' 89, they prayed that Arrastia be restrained from preventing them from reoccupying the property in question. Upon referral of the matter to the respective Barangay Agrarian Reform Committees ("BARC") of the Barangays of Lourdes, San Isidro, and San Rafael, BARC officials reported that the dispute could no longer be settled amicably. In particular, the BARC of Barangay San Rafael (Baruya), Lubao informed the hearing officer that private petitioners were tenants or actual tillers of the disputed property. The Lubao MARO also submitted the reports of other BARC officials.[6]

On the basis of the reports submitted by BARC officials and private petitioners' affidavits, the hearing officer issued on December 9, 1990 an order granting a preliminary injunction to restrain Arrastia from disturbing private petitioners in the tilling of the disputed property. The PARAD hearing officer also directed the MARO to act on the petition for the coverage of the disputed property under the CARP.[7]

Meanwhile, on January 30, 1991, Arrastia filed an omnibus motion in DARAB Case No. 0001, questioning the jurisdiction of the hearing officer to issue an order of injunction. The DARAB denied said motion and subsequently issued the writ of injunction on September 22, 1992.

Arrastia filed an answer in DARAB Regional Case No. 161-P' 89, interposing the defense that the disputed land was not devoted to agriculture and that private petitioners were not tenants thereof.

After due hearing, the PARAD rendered a decision in DARAB Regional Case No. 161-P' 89 on May 13, 1993, declaring that the subject property is covered by the CARP and that private petitioners are qualified beneficiaries of the program. The adjudicator also issued an injunction prohibiting Arrastia from disturbing private petitioners' occupation of the property. The dispositive portion of the decision reads:

WHEREFORE, PREMISES CONSIDERED, this Board hereby renders judgment:

(1) Confirming and declaring that the subject landholding with an area of 300 hectares, more or less, situated at Barangays Lourdes, San Isidro and San Rafael (Baruya), Lubao, Pampanga, owned by the defendant and her co-owners are agricultural land subject to the coverage of RA No. 6657, and that plaintiffs are qualified beneficiaries who enjoy the benefits of agrarian laws including the right to an award of the lands they actually till in accordance with the procedure therein;

(2) Making the preliminary injunction hereto forthwith issued, prohibiting the defendant and her co-owners and all other persons claiming any right or title under them, from continuing to exclude plaintiffs and from re-entry and re-occupation of the subject landholding as agricultural tenants and their restoration thereat, final and permanent; and

(3) Ordering the defendant and her co-owners to pay plaintiffs the amount of P10,000.00 as attorney's fees, plus costs.[8]

Arrastia appealed the aforementioned decision to petitioner DARAB. The appeal was docketed as DARAB Case No. 1551. On March 28, 1994, the DARAB rendered its decision modifying the appealed judgment, the dispositive portion of which reads:

WHEREFORE, premises considered, the appeal is DISMISSED. The judgment of the Provincial Adjudicator is hereby modified as follows:

- Declaring Dominador Flores, Rodrigo Serrano, Oscar Salazar, Alejandro Danan, Tirso Lingad, Francisco Santos, Dante Danan, Jesus Castro, Amado Escueta, Marcos Susi, Francisco Bernate, Felix Escueta, Ladislao Danan, Lamberto Danan, Carlito Santos, Orlando Santos, Jose Manansala, Eulalio Danan, Eddie Escueta, Conrado Castro, Pedro Tala and Victorino Tala to be agricultural lessees on their respective tillages, and ordering their reinstatement on the land;

- Ordering the rest of the Plaintiffs-Appellees to be reinstated on the land and to possess and occupy their respective areas of cultivation;

- Ordering the Regional Director of the Department of Agrarian Reform, Region III, San Fernando, Pampanga, the Provincial Agrarian Reform Officer for the Province of Pampanga and the Municipal Reform Officer for the Municipality of Lubao, Province of Pampanga to immediately undertake administrative processes for the coverage of the land under Republic Act No. 6657 and other applicable agrarian laws, DAR Administrative Order No. 1, Series of 1993, DAR Department Memorandum Circular No. 04, Series of 1993 and other DAR rules and regulations taking into consideration the qualifications of Appellees to be beneficiaries of the program as well as the right of retention of the owners of the subject landholding and the last paragraph of Section 6, Republic Act No. 6657 which provides:

Upon the effectivity of this Act, any sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner in violation of this Act shall be null and void; Provided, however, That those executed prior to this Act shall be valid only when registered with the Register of Deeds within the period of three (3) months after the effectivity of this Act. Thereafter, all Register of Deeds shall inform the DAR within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares.

- Ordering Defendant-Appellant, or any person or persons acting for and in behalf, to refrain from committing any act or acts which will disturb or in any way adversely interfere with the peaceful possession, occupation and farming activities of Appellees on the land itself;

- Ordering Defendant-Appellant to pay Plaintiff-Appellees the reasonable amount of Twenty Thousand Pesos (P20,000.00) as attorney's fees plus costs of the suit; and

- Ordering the Regional Sheriff of the DAR Regional Adjudication Board, Region III, to implement this Order and submit a return to this Board within seven (7) days from receipt of this Order.

This decision is immediately executory pursuant to Section 50 of Republic Act No. 6657.[9]

Aggrieved, Arrastia elevated the controversy to the Court of Appeals, which reversed and set aside the decision of the DARAB.

On the issue of whether private petitioners are qualified beneficiaries under the CARP, the appellate court ruled in the negative mainly on the basis of the report of MARO Josefina Vidal which was quoted at length in its Decision. In the said report, the MARO recommended the disqualification of private petitioners from the coverage of the CARP in view of their continued violation of Sections 22 and 23 of Executive Order No. 229, under which persons, associations, or entities which prematurely enter lands covered by agrarian reform shall be permanently disqualified from CARP coverage and cited for contempt, respectively. The Court of Appeals also found private petitioners guilty of violating the temporary restraining order and preliminary injunction issued by the SAC in Agrarian Case No. 2000 and also the temporary restraining issued by the Court of Appeals itself on April 13, 1994. The appeals court denied the motions for reconsideration separately filed by private petitioners. Hence, the petitions before this Court.

In its petition, DARAB raised the following issues:

1.1. THE HONORABLE COURT OF APPEALS ERRED WHEN IT SET ASIDE THE ENTIRETY OF THE DECISION APPEALED FROM, TO INCLUDE THE ORDER TO PLACE THE DISPUTED LANDHOLDINGS UNDER CARP COVERAGE, ON THE SOLE BASIS OF THE FINDING THAT PRIVATE RESPONDENTS (FARMERS) THEREIN WERE DISQUALIFIED AS FARMER BENEFICIARIES;

1.2. THE HONORABLE COURT OF APPEALS ERRED WHEN IT RULED ON THE DISQUALIFICATION OF ALL THE FARMERS (PRIVATE RESPONDENTS THEREIN), IRRESPECTIVE OF WHETHER THEY (OR SOME) ARE AGRICULTURAL TENANTS OR NOT, ON THE SOLE BASIS OF A FIELD REPORT THAT WAS PREPARED AND SUBMITTED WITHOUT THE FARMERS AT LEAST GIVEN OPPORTUNITY TO BE HEARD, THUS, VIOLATIVE OF DUE PROCESS.[10]

In turn, private petitioners in their petition impute the following errors to the Court of Appeals:

- RESPONDENT COURT GRAVELY ERRED IN NOT GIVING FIRST DUE COURSE TO THE PETITION IN CA-G.R. NO. 33796 AND REQUIRED THE DARAB TO ELEVATE TO IT THE RECORDS OF DARAB CASE NO. 1551 INCLUDING ALL THE EVIDENCE PRESENTED SO IT COULD HAVE FULLY APPRECIATED ALL THE FACTS INSTEAD OF MERELY RELYING ON THE PLEADINGS FILED BEFORE IT.

- THE RESPONDENT COURT GRAVELY ERRED IN IGNORING FUNDAMENTAL RULES OF ADMINISTRATIVE DUE PROCESS BY ITS FAILURE AND REFUSAL TO CONSIDER SUBSTANTIVE EVIDENCE INTRODUCED BY PETITIONERS IN THE PROCEEDINGS IN DARAB CASE NO. 161-P'89 AND DARAB CASE NO. 1551 RESULTING IN FINDINGS WHICH ARE NOT ONLY CONTRARY TO LAW AND THE EVIDENCE ON RECORD BUT ARE FURTHER PATENTLY PARTIAL TO PRIVATE RESPONDENTS.

- THE RESPONDENT COURT GRAVELY ERRED IN MAKING CONCLUSIONS FROM ITS REVIEW OF THE DARAB DECISION IN DARAB CASE NO. 1551 WITHOUT ANY BASIS ON THE DECISION ITSELF THUS CITING ERRORS IN THE SAID DECISION WHICH WERE NOT ACTUALLY MADE BY THE DARAB.

- THE RESPONDENT COURT GRAVELY ERRED IN REVERSING THE FINDINGS OF FACTS OF THE DARAB WITHOUT DUE REGARD TO EVIDENCE PRESENTED BEFORE THE LATTER.[11]

The two petitions advance two main arguments: first, the Court of Appeals' finding that private petitioners are ineligible to become CARP beneficiaries is without factual or evidentiary basis; second, the Court of Appeals' reversal of the DARAB's order to undertake administrative proceedings for the acquisition of the subject property

for agrarian reform purposes is premature.

Private petitioners contend that the Court of Appeals' declaration that they are not qualified beneficiaries of the CARP has no evidentiary basis because it failed to order the transmittal of the DARAB records, particularly the reports of the different BARC officials establishing tenancy relationship between private petitioners and the owners of the disputed property. For its part, DARAB denies having categorically declared in its decision in DARAB Case No. 1551 that private petitioners are qualified beneficiaries because the administrative proceeding to determine the beneficiaries entitled under R.A. No. 6657 was yet to be undertaken not by DARAB but by the administrative officials of DAR. DARAB also describes as arbitrary and unilateral the MARO report quoted by the appellate court in support of its ruling that private petitioners prematurely entered the disputed property.

The resolution of the issue on private petitioners' eligibility under the CARP calls for a review of the evidence on record to determine whether or not the conclusion of the Court of Appeals has factual basis. At the outset, it should be noted that the jurisdiction of this Court in a petition for review on certiorari under Rule 45 of the Rules of Court is limited to reviewing only errors of law, as it is not a trier of facts. It is a settled doctrine that findings of fact of the Court of Appeals are binding and conclusive upon this Court, not to be disturbed unless: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellees; (7) the findings of fact of the Court of Appeals are contrary to those of the trial court; (8) said findings of fact are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record.[12]

The DARAB and the Court of Appeals' findings in respect to the status of private petitioners are conflicting. The DARAB found that private petitioners are either agricultural lessees paying rentals to the landowners or actual tillers in possession of distinct portions of the subject property. The Court of Appeals, however, found private petitioners as not qualified to become CARP beneficiaries on account of certain violations they committed and considered it unnecessary to ascertain their status as agricultural lessees or tillers. In view of the divergent opinions, the Court must review the evidence relied upon by the DARAB and the Court of Appeals in arriving at their respective conclusions.

The Court affirms factual findings and conclusions of the Court of Appeals.

The appellate court's conclusion that private petitioners committed particular violations warranting their disqualification from the CARP is based on the MARO report which has not been disputed by all the private petitioners. The MARO who prepared the report enjoys the presumption of regularity in the performance of her functions. Absent any showing that the Court of Appeals committed grave abuse of discretion in giving evidentiary weight to said report, said factual findings are generally deemed conclusive on this Court, which is not a trier of facts.[13]

Anent DARAB's contention that the MARO report was made unilaterally and without giving private petitioners the opportunity to be heard, the circumstances do not nullify said report for lack of due process. The essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of.[14] Private petitioners cannot claim denial of due process simply because they had ample opportunity to rebut the MARO's findings and present contrary evidence in the proceedings before the PARAD, the DARAB, or the Court of

Appeals.

Private petitioners insist that they are bona fide agricultural tenants of the disputed property. It is unnecessary to pass upon this issue in the light of the categorical finding of the appellate court that private petitioners are no longer entitled to avail of the benefits under the CARP. In any event, however, the claim is not well-founded.

A perusal of the decision in DARAB Case No. 1551 reveals that DARAB classified two (2) sets of farmworkers, i.e., those who cultivated the land and paid corresponding rentals, and those who occupied and cultivated portions of the disputed property since 1986 as certified by BARC officials.

Mere occupation or cultivation of an agricultural land does not automatically convert a tiller or farmworker into an agricultural tenant recognized under agrarian laws. The essential requisites of a tenancy relationship are: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) there is consent among the parties; (4) the purpose is agricultural production; (5) there is personal cultivation; and (6) there is sharing of harvests. All these requisites must concur in order to create a tenancy relationship between the parties.[15] In the case at bar, it has not been sufficiently established that private petitioners' occupation and cultivation of the disputed property was with the consent of the landowners.

DARAB assails the Court of Appeals in reversing the DARAB decision in its entirety. It contends that the determination of private petitioners' eligibility under R.A. No. 6657 has no bearing on its order to commence administrative procedure for the acquisition of the disputed property.

As borne by the case records,[16] respondent Arrastia owns only 4.4630 hectares of the subject property, which is below the retention limit under Section 6[17] of R.A. No. 6657 granting a right of retention of up to a maximum of five (5) hectares of agricultural land in favor of a landowner whose property may be acquired for distribution to agrarian reform beneficiaries. Consequently, a landowner may keep his entire covered landholding if its aggregate size does not exceed the retention limit of five (5) hectares. His land will not be covered at all by the operation land transfer program although all requisites for coverage are present.

The right of retention is a constitutionally guaranteed right, which is subject to qualification by the legislature. It serves to mitigate the effects of compulsory land acquisition by balancing the rights of the landowner and the tenant and by implementing the doctrine that social justice was not meant to perpetrate an injustice against the landowner. A retained area, as its name denotes, is land which is not supposed to anymore leave the landowner's dominion, thus sparing the government from the inconvenience of taking land only to return it to the landowner afterwards, which would be a pointless process.[18] For as long as the area to be retained is compact or contiguous and does not exceed the retention ceiling of five (5) hectares, a landowner's choice of the area to be retained must prevail. Moreover, Administrative Order No. 4, series of 1991, which supplies the details for the exercise of a landowner's retention rights, likewise recognizes no limit to the prerogative of the landowner, although he is persuaded to retain other lands instead to avoid dislocation of farmers.[19] Therefore, there is no legal and practical basis to order the commencement of the administrative proceedings for the placement of respondent Arrastia's land under the CARP since her property's land area falls below the retention limit of five (5) hectares.

WHEREFORE, both petitions in G.R No. 132759 and G.R. No. 132866 are DENIED. The Decision of the Court of Appeals in CA-G.R. SP No. 33796 is AFFIRMED. Costs against private petitioners.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Callejo, Sr., JJ., concur.
Chico-Nazario, J., on leave.

[1]CA Decision, p. 5; G.R. No. 132866, Rollo, p. 40.

[2] CA Decision, p. 6; id. at p. 41.

[3] Ibid.

[4]CA Decision, p. 7; id. at 42.

[5] Ibid.

[6] PARAD Decision, p. 3; G.R No. 132759, Rollo, p. 68.

[7] PARAD Decision, p. 4; id. at 69.

[8]PARAD Decision, p. 17; id. at 82.

[9] DARAB Decision, p. 30; id. at 114-115.

[10] Id. at 37.

[11] G.R. No. 132866, Rollo, p. 20.

[12] Baricuatro, Jr. v. Court of Appeals, 382 Phil. 15 (2000).

[13] Alipat v. Court of Appeals, et al., 368 Phil. 264 (1999).

[14] CMP Federal Security Agency v. NLRC, et al., 362 Phil. 439 (1999).

[15] Victorio v. Court of Appeals, G.R. No. 110012, March 28, 2001, 355 SCRA 520.

[16] CA Rollo, p. 125.

[17] SECTION 6. Retention Limits.-Except as otherwise provided in this Act, no person may own or retain, directly or indirectly, any public or private agricultural land, the size of which shall vary according to factors governing a viable family-size farm, such as commodity produced, terrain, infrastructure, and soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder, but in no case shall retention by the landowner exceed five (5) hectares. Three (3) hectares may be awarded to each child of the landowner, subject to the following qualifications: (1) that he is at least fifteen (15) years of age; and (2) that he is actually tilling the land or directly managing the farm: Provided, That landowners whose lands have been covered by Presidential Decree No. 27 shall be allowed to keep the areas originally retained by them thereunder: Provided, further, That original homestead grantees or their direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead.

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

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

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

Upon the effectivity of this Act, any sale, disposition, lease, management, contract or transfer of possession of private lands executed by the original landowner in violation of the Act shall be null and void: Provided, however, That those executed prior to this Act shall be valid only when registered with the Register of Deeds within a period of three (3) months after the effectivity of this Act. Thereafter, all Registers of Deeds shall inform the Department of Agrarian Reform (DAR) within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares.

[18] *Eudosia Daez and/or Her Heirs v. Court of Appeals, et al.*, 382 Phil. 742 (2000).

[19] *Ibid.*

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