

**EUDOSIA DAEZ AND/OR HER HEIRS, REP. BY ADRIANO D. DAEZ,
PETITIONERS, VS. THE HON. COURT OF APPEALS MACARIO
SORIENTES, APOLONIO MEDIANA, ROGELIO MACATULAD AND
MANUEL UMALI, RESPO...**

G.R. No. 133507. February 17, 2000

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals[2] dated January 28, 1998 which denied the application of petitioner heirs of Eudisia Daez for the retention of a 4.1685-hectare riceland pursuant to Republic Act (R.A.) No. 6657, otherwise known as the Comprehensive Agrarian Reform Law[3], thereby reversing the Decision[4] of then Executive Secretary Ruben D. Torres and the Order[5] of then Deputy Executive Secretary Renato C. Corona, both of which had earlier set aside the Resolution[6] and Order[7] of then Department of Agrarian Reform (DAR) Secretary Ernesto D. Garilao denying exemption of the same riceland from coverage under Presidential Decree (P.D.) No. 27.

The pertinent facts are:

Eudisia Daez, now deceased, was the owner of a 4.1685-hectare riceland in Barangay Lawa, Meycauayan, Bulacan which was being cultivated by respondents Macario Soriente, Rogelio Macatulad, Apolonio Mediana and Manuel Umali under a system of share-tenancy. The said land was subjected to the Operation Land Transfer (OLT) Program under Presidential Decree (P.D.) No. 27[8] as amended by Letter of Instruction (LOI) No. 474[9]. Thus, the then Ministry of Agrarian Reform acquired the subject land and issued Certificates of Land Transfer (CLT) on December 9, 1980 to private respondents as beneficiaries.

However, on May 31, 1981, private respondents signed an affidavit, allegedly under duress, stating that they are not share tenants but hired laborers[10]. Armed with such document, Eudisia Daez applied for the exemption of said riceland from coverage of P.D. No. 27 due to non-tenancy as well as for the cancellation of the CLTs issued to private respondents.

In their Affidavit dated October 2, 1983, Eudisia Daez and her husband, Lope, declared ownership over 41.8064 hectares of agricultural lands located in Meycauayan, Bulacan and fourteen (14) hectares of riceland, sixteen (16) hectares of forestland, ten (10) hectares of "batuhan" and 1.8064 hectares of residential lands[11] in Penaranda, Nueva Ecija. Included in their 41.8064-hectare landholding in Bulacan, was the subject 4,1685-hectare riceland in Meycauayan.

On July 27, 1987, DAR Undersecretary Jose C. Medina issued an Order denying Eudisia Daez's application for exemption upon finding that her subject land is covered under LOI No. 474, petitioner being owner of the aforesaid agricultural lands exceeding seven (7) hectares.[12]

On June 29, 1989, Eudisia Daez wrote a letter to DAR Secretary Benjamin T. Leong requesting for

reconsideration of Undersecretary Medina's order. But on January 16, 1992.[13] Secretary Leong affirmed the assailed order upon finding private respondents to be bonafide tenants of the subject land. Secretary Leong disregarded private respondents' May 31, 1981 affidavit for having been executed under duress because he found that Eudisia's son, Adriano, who was then the incumbent Vice-Mayor of Meycauayan, pressured private respondents into signing the same.

Undaunted, Eudisia Daez brought her case on February 20, 1992 to the Court of Appeals via a petition for certiorari. The Court of Appeals, however, sustained the order of Secretary Leong in a decision dated April 29, 1992. Eudisia pursued her petition before this court but we denied it in a minute resolution dated September 18, 1992. We also denied her motion for reconsideration on November 9, 1992.

Meantime, on August 6 and 12, 1992, the DAR issued Emancipation Patents (EPs) to private respondents. Thereafter, the Register of Deeds of Bulacan issued the corresponding Transfer Certificates of Title (TCTs).

Exemption of the 4.1685 riceland from coverage by P.D. No. 27 having been finally denied her, Eudisia Daez next filed an application for retention of the same riceland, this time under R.A. No. 6657.

In an order dated March 22, 1994, DAR Region III OIC-Director Eugenio B. Bernardo allowed Eudisia Daez to retain the subject riceland but he denied the application of her eight (8) children to retain three (3) hectares each for their failure to prove actual tillage of the land or direct management thereof as required by law.[14] Aggrieved, they appealed to the DAR.

On August 26, 1994, then DAR Secretary Ernesto D. Garilao, set aside the order of Regional Director Bernardo in a Resolution,[15] the decretal portion of which reads, viz.:

"WHEREFORE, premises considered, this Resolution is hereby issued setting aside with FINALITY the Order dated March 22, 1994 of the Regional Director of DAR Region III.

The records of this case is remanded to the Regional Office for immediate implementation of the Order dated January 16, 1992 of this office as affirmed by the Court of Appeals and the Supreme Court.

SO ORDERED."

Eudisia Daez filed a Motion for Reconsideration but it was denied on January 19, 1995.[16]

She appealed Secretary Garilao's decision to the Office of the President which ruled in her favor. The dispositive portion of the Decision[17] of then Executive Secretary reads:

"WHEREFORE, the resolution and order appealed from are hereby SET ASIDE and judgment is rendered authorizing the retention by Eudisia Daez or her heirs of the 4.1685-hectare landholding subject thereof.

SO ORDERED."[18]

Aggrieved, private respondents sought from the Court of Appeals, a review of the decision of the Office of the President.

On January 28, 1999, the said Decision of the Office of the President was reversed. The Court of Appeals ordered, thus:

"WHEREFORE, the assailed decision of July 5, 1996 and Order dated October 23, 1996 of the public respondents are REVERSED AND SET ASIDE, and the Resolution and Order of DAR Secretary Ernesto D. Garilao respectively dated August 26, 1994 and January 19, 1995 are REINSTATED.

SO ORDERED."

Hence, this petition which assigns the following errors:

"I.

THE HONORABLE COURT OF APPEALS ERRED WHEN IT RULED THAT DISTINCTION BETWEEN EXEMPTION FROM AGRARIAN REFORM COVERAGE AND THE RIGHT OF RETENTION OF LANDOWNERS IS ONLY A MATTER OF SEMANTICS THAT AN ADVERSE DECISION IN THE FORMER WILL FORECLOSE FURTHER ACTION TO ENFORCE THE LATTER CONSIDERING THAT THEY CONSTITUTE SEPARATE AND DISTINCT CAUSES OF ACTION AND, THEREFORE, ENFORCEABLE SEPARATELY AND IN SEQUEL.

II.

THE HONORABLE COURT OF APPEALS ERRED WHEN IT APPLIED THE PRINCIPLE OF RES JUDICATA DESPITE THE FACT THAT THE PREVIOUS CASE CITED (EXEMPTION FROM COVERAGE DUE TO NON-TENANCY) AND THE PRESENT CASE (RETENTION RIGHT) ARE OF DIFFERENT CAUSES OF ACTION.

III.

THE HONORABLE COURT OF APPEALS ERRED WHEN IT RULED/OPINED THAT THERE WAS A CUT-OFF DATE (AUGUST 27, 1985) FOR LANDOWNERS TO APPLY FOR EXEMPTION OR RETENTION UNDER PD 27 AND THOSE WHO FAILED TO FILE THEIR APPLICATIONS/PETITIONS ARE DEEMED TO HAVE WAIVED THEIR RIGHTS.

IV.

THE HONORABLE COURT OF APPEALS ERRED IN DECLARING THAT PETITIONERS (RESPONDENTS THEREIN) ARE GUILTY OF ESTOPPEL.

V.

THE HONORABLE COURT OF APPEALS ERRED WHEN IT RULED THAT THE LAND SUBJECT OF THIS CASE IS NO LONGER OWNED BY PETITIONERS SINCE PRIVATE RESPONDENTS HAVE ALREADY BEEN ISSUED NOT ONLY THEIR RESPECTIVE CERTIFICATES OF LAND TRANSFER BUT ALSO THEIR INDIVIDUAL CERTIFICATES OF TITLE OVER THE DISPUTED AREA."[19]

We grant the petition.

First. Exemption and retention in agrarian reform are two (2) distinct concepts.

P.D. No. 27, which implemented the Operation Land Transfer (OLT) Program, covers tenanted rice or corn lands. The requisites for coverage under the OLT program are the following: (1) the land must be devoted to rice or corn crops; and (2) there must be a system of share-crop or lease-tenancy obtaining therein. If either requisite is absent, a landowner may apply for exemption. If either of these requisites is absent, the land is not covered under OLT. Hence, a landowner need not apply for retention where his ownership over the entire landholding is intact and undisturbed.

P.D. No. 27 grants each tenant of covered lands a five (5)-hectare lot, or in case the land is irrigated, a three (3)-hectare lot constituting a family size farm. However, said law allows a covered landowner to retain not more than seven (7) hectares of his land if his aggregate landholding does not exceed twenty-four (24) hectares. Otherwise, his entire landholding is covered without him being entitled to any retention right.[20]

Consequently, a landowner may keep his entire covered landholding if its aggregate size does not exceed the retention limit of seven (7) hectares. In effect, his land will not be covered at all by the OLT program although all

requisites for coverage are present. LOI No. 474 clarified the effective coverage of OLT to include tenanted rice or corn lands of seven (7) hectares or less, if the landowner owns other agricultural lands of more than seven (7) hectares. The term "other agricultural lands" refers to lands other than tenanted rice or corn lands from which the landowner derives adequate income to support his family.

Thus, on one hand, exemption from coverage of OLT lies if: (1) the land is not devoted to rice or corn crops even if it is tenanted; or (2) the land is untenanted even though it is devoted to rice or corn crops.

On the other hand, the requisites for the exercise by the landowner of his right of retention are the following: (1) the land must be devoted to rice or corn crops; (2) there must be a system of share-crop or lease-tenancy obtaining therein; and (3) the size of the landholding must not exceed twenty-four (24) hectares, or it could be more than twenty-four (24) hectares provided that at least seven (7) hectares thereof are covered lands and more than seven (7) hectares of it consist of "other agricultural lands".

Clearly, then, the requisites for the grant of an application for exemption from coverage of OLT and those for the grant of an application for the exercise of a landowner's right of retention, are different.

Hence, it is incorrect to posit that an application for exemption and an application for retention are one and the same thing. Being distinct remedies, finality of judgment in one does not preclude the subsequent institution of the other. There was, thus, no procedural impediment to the application filed by Eudisia Daez for the retention of the subject 4.1865-hectare riceland, even after her appeal for exemption of the same land was denied in a decision that became final and executory.

Second. Petitioner heirs of Eudisia Daez may exercise their right of retention over the subject 4.1865 riceland.

The right of retention is a constitutionally guaranteed right, which is subject to qualification by the legislature.[21] 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[22]. 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.

In the landmark case of Association of Small Landowners in the Phil., Inc. v. Secretary of Agrarian Reform[23], we held that landowners who have not yet exercised their retention rights under P.D. No. 27 are entitled to the new retention rights under R.A. No. 6657[24]. We disregarded the August 27, 1985 deadline imposed by DAR Administrative Order No. 1, series of 1985 on landowners covered by OLT. However, if a landowner filed his application for retention after August 27, 1985 but he had previously filed the sworn statements required by LOI Nos. 41, 45 and 52, he is still entitled to the retention limit of seven (7) hectares under P.D. No.27[25]. Otherwise, he is only entitled to retain five (5) hectares under R.A. No. 6657.

Sec. 6 of R.A. No. 6657, which provides, viz.:

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, 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 land have been covered by Presidential Decree No. 27 shall be allowed to keep the area originally retained by them thereunder, further, That original homestead grantees or 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 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 a period of three (3) months after the effectivity of this Act. Thereafter, all Register of Deeds shall inform the DAR within thirty (3) days of any transaction involving agricultural lands in excess of five (5) hectares"[26].

defines the nature and incidents of a landowner's right of retention. For as long as the area to be retained is compact or contiguous and it 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,[27] 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.

Without doubt, this right of retention may be exercised over tenanted land despite even the issuance of Certificate of Land Transfer (CLT) to farmer-beneficiaries.[28] What must be protected, however, is the right of the tenants to opt to either stay on the land chosen to be retained by the landowner or be a beneficiary in another agricultural land with similar or comparable features.[29]

Finally. Land awards made pursuant to the government's agrarian reform program are subject to the exercise by a landowner, who is so qualified, of his right of retention.

Under P.D. No. 27, beneficiaries are issued CLTs to entitle them to possess lands. Thereafter, they are issued Emancipation Patents (EPs) after compliance with all necessary conditions. Such EPs, upon their presentation to the Register of Deeds, result in the issuance of the corresponding transfer certificates of title (TCT) in favor of the beneficiaries mentioned therein[30].

Under R.A. No. 6657, the procedure has been simplified[31]. Only Certificates of Land Ownership Award (CLOAs) are issued, in lieu of EPs, after compliance with all prerequisites. Thereafter, upon presentation of the CLOAs to the Register of Deeds, TCTs are issued to the designated beneficiaries. CLTs are no longer issued.

The issuance of EPs or CLOAs to beneficiaries does not absolutely bar the landowner from retaining the area covered thereby. Under Administrative Order No. 2, series of 1994[32], an EP or CLOA may be cancelled if the land covered is later found to be part of the landowner's retained area.

A certificate of title accumulates in one document a comprehensive statement of the status of the fee held by the owner of a parcel of land.[33] As such, it is a mere evidence of ownership and it does not constitute the title to the land itself. It cannot confer title where no title has been acquired by any of the means provided by law[34].

Thus, we had, in the past, sustained the nullification of a certificate of title issued pursuant to a homestead patent because the land covered was not part of the public domain and as a result, the government had no authority to issue such patent in the first place[35]. Fraud in the issuance of the patent, is also a ground for impugning the validity of a certificate of title[36]. In other words, the invalidity of the patent or title is sufficient basis for nullifying the certificate of title since the latter is merely an evidence of the former.

In the instant case, the CLTs of private respondents over the subject 4.1685-hectare riceland were issued without Eudisia Daez having been accorded her right of choice as to what to retain among her landholdings. The transfer certificates of title thus issued on the basis of those CLTs cannot operate to defeat the right of the heirs of deceased Eudisia Daez to retain the said 4.1685 hectares of riceland.

WHEREFORE, the instant petition is hereby GRANTED. The Decision of the Court of Appeals, dated January 28, 1998, is REVERSED and SET ASIDE and the Decision of the Office of the President, dated July 5, 1996, is hereby REINSTATED. In the implementation of said decision, however, the Department of Agrarian Reform is hereby ORDERED to fully accord to private respondents their rights under Section 6 of R.A. No. 6657.

No costs.

SO ORDERED.

Bellosillo, and Mendoza, JJ., concur.

Quisumbing, J., no part. Prior official action.

Buena, J., on leave.

[1] Penned by Associate Justice Delilah Vidallon-Magtolis and concurred in by Associate Justices Salome A. Montoya and Rodrigo V. Cosico, Rollo, pp. 42-50.

[2] Eighth Division.

[3] R.A. No. 6657 took effect on June 15, 1988.

[4] In O.P. Case No. 6072, dated July 5, 1996, Rollo, pp. 87-91.

[5] Dated October 23, 1996, Rollo, pp. 270-271.

[6] Dated August 26, 1994, Court of Appeals (CA), Rollo, pp. 80-85.

[7] Dated January 19, 1995, C.A. Rollo, pp. 86-87.

[8] Promulgated by then President Ferdinand E. Marcos on October 21, 1972, entitled, "Decreeing the emancipation of tenants from the bondage of the soil, transferring to them the ownership of the land they till and providing the instruments and mechanism therefor."

[9] Issued on October 21, 1976.

[10] Annex "B" of Respondents' Memorandum, Rollo, p. 179.

[11] Rollo, p. 179.

[12] Annex "A" of Respondents' Memorandum, id., pp. 175-176.

[13] Annex "B" of supra, id., pp. 177-187.

[14] Annex "J" of Respondents' Memorandum, Rollo, pp. 237-239.

- [15] Annex "L" of Respondents' Memorandum, id., pp. 243-250.
- [16] Annex "M" of Respondents' Memorandum, id., pp. 249-250.
- [17] Annex "N" of Respondents' Memorandum, Rollo, pp. 251-255.
- [18] Decision of the Court of Appeals dated January 28, 1999, p. 9; Rollo, p. 50.
- [19] Petition, pp. 8-9, Rollo, pp. 23-24.
- [20] DAR Memorandum on the Interim Guidelines on Retention By Small Landowners, issued on July 10, 1975.
- [21] Sec. 4, Art. XIII, 1987 Constitution.
- [22] *Cabatan v. Court of Appeals* 95 SCRA 323, 357 (1980); *Dequito v. Llamas*, 66 SCRA 504, 510 (1975)

[23] 175 SCRA 343 (1989)

- [24] Id., p. 392.
- [25] Administrative Order No. 4, series of 1991, issued on April 26, 1991 entitled, "Supplemental guidelines governing the exercise of retention rights by landowners under P.D. No. 27".
- [26] Emphasis and underscoring ours.
- [27] Ibid.
- [28] *Tenants of the Estate of Dr. Jose Sison v. Court of Appeals*, 210 SCRA 545, 552-553 (1992)
- [29] Sec. 6, R.A. No. 6657.
- [30] P.D. No. 266, issued on August 4, 1973; *Vinzons-Magana v. Estrella*, 201 SCRA 536, 540 (1992)
- [31] Sec. 24, R.A. 6657.
- [32] Issued on March 7, 1994.
- [33] *Halili v. Court of Industrial Relations*, 257 SCRA 174, 184 (1996)
- [34] *Tan v. Lim*, 296 SCRA 455, 476 (1998)
- [35] *Balangcad v. Justices of the Court of Appeals*, 206 SCRA 169, 174 (1992); *Mendoza v. Navarette*, 214 SCRA 337, 349 (1992); *Reyes, et. al v. Court of Appeals*, 295 SCRA 296, 312 (1998)
- [36] *Meneses v. Court of Appeals*, 246 SCRA 162, 173 (1995)

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