

SPOUSES BENNY CALVO AND JOVITA S. CALVO, PETITIONERS, VS. SPOUSES BERNARDITO AND ANGELINA VERGARA AND SPOUSES ALEXBERTO AND BELIBETH BASALO, RESPONDENTS.*G.R. No. 134741. December 19, 2001*

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-134741/>**QUISUMBING, J.:**

This petition for certiorari seeks to annul and set aside the decision[1] dated February 17, 1998 of the Court of Appeals in CA-G.R. SP No. 42907, which affirmed the decision[2] dated October 14, 1996 of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB CASE NO.1848. DARAB had modified the earlier decision of its regional unit (Region VII), in Cebu City and declared that the 750 square meters portion of Lot No. 5603 was properly covered by Operation Land Transfer (OLT) as homelots pursuant to Letter of Instruction No. 705 and Presidential Decree No. 27; that private respondents Belibeth Basalo and Vergara Spouses were bona fide farmer-beneficiaries and recipients of said homelots; and that the orders of reallocation of the farmlots in favor of Belibeth Basalo and Angelina Vergara were valid and legal.

The antecedent facts of this case are as follows:

Milagros Lebumfacil was the owner of Lots 5603, 5602-B, 5774-5 and 5774-7 in Matabang, Toledo City. On October 21, 1972, these lots were placed under the Operation Land Transfer (OLT) program of the Department of Agrarian Reform (DAR) under Presidential Decree No. 27,[3] which deemed the tenant-farmers as owners of the land they till.[4] Pursuantly, Egmidio Baguio and Josefa Apan, who were identified as farmer beneficiaries, were awarded Lots 5774-5 and 5774-7, and Lot 5602-B respectively. However, due to poor health and senility, Baguio and Apan waived their rights over the said lots. This prompted the DAR on November 25, 1991 to reallocate and award Lots 5774-5 and 5774-7 to the Vergara spouses and Lot 5602-B to the Basalo spouses. A portion of Lot No. 5603, was awarded to Teodulfo Aviles and Adriano Lumangtad, while the remaining 750-square-meters was awarded to herein respondents as their homelots, being the reallocatees of Lots 5602-B, 5774-5 and 5774-7.

Despite the coverage under the OLT program of the abovesited parcels of land, Lebumfacil still sold them on June 2, 1987 to petitioner spouses Benny and Jovita Calvo.

Subsequently, on October 2, 1991, petitioners filed with the Municipal Trial Court of Toledo City a complaint for illegal detainer against private respondents praying for their eviction from their homelots, i.e., the 750 square meter portion of Lot 5603.

As the dispute was agrarian in nature, the Municipal Trial Court forwarded the case to the Provincial Agrarian Reform Adjudication Board, Cebu City,[5] which, after trial, rendered its decision on July 19, 1993. Its dispositive portion reads:

WHEREFORE, in the light of the foregoing reasons, Decision is hereby rendered as follows, to wit:

- 1) Declaring the coverage of the subject land under Operation Land Transfer (OLT) as valid and legal;

2) Declaring the CLT Transfer Action No. CEB-VII-184-91) involving reallocation of Lot No. 5602-B from Josefa Apan to Belibeth Basalo as embodied in the Order of Reallocation dated November 25, 1991 as null and void while affirming the validity of the remaining Order of Reallocation (Exhibit "S-1");

3) No pronouncement as to costs and damages.

Notify Atty. Valentino Legaspi, Atty. Florito Pozon, Ms. Elvie Odchigue, MARO of DAR, Toledo City and all the parties of this Decision for their guidance and information.

SO ORDERED.[6]

Petitioners appealed to the Department of Agrarian Reform Adjudication Board (DARAB) which affirmed the above decision with modification, thus:

WHEREFORE, finding reversible error in the decision appealed from, the same is MODIFIED and judgment is hereby rendered:

1) Declaring the landholding in question, Lot No. 5603-part containing an area of seven hundred fifty (750) square meters, more or less, and located at Matab-ang, Toledo City, to be proper coverage of Operation Land Transfer (OLT) as homelots awarded to private Defendants-Appellees Belibeth Basalo and Avelina (Angelina) Vergara pursuant to Letter of Instruction No. 705 and Presidential Decree No. 27;

2) Declaring private Defendants-Appellees Basalo and Vergara spouses as bona-fide and valid farmer-beneficiaries and recipients of said homelots;

3) Upholding the validity and legality of both Orders, dated November 25, 1991, issued by public Defendant-Appellant Atty. Jesus V. Kabristante, Provincial Agrarian Reform Officer of Cebu Province in CLT Transfer Action Case No. CEB-VII-184-91 (Belibeth A. Basalo's case) and CLT Transfer Action Case No. CEB-VII-185-91 (Avelina S. Vergara's case), accordingly reallocating the farmlots to said private Defendants-Appellees; and

4.) Dismissing the complaint/amended complaint in the case at bar.

With costs against Plaintiffs-Appellants.

SO ORDERED.[7]

Displeased, petitioners elevated the case to the Court of Appeals which considered as the basic issue therein, whether the 750 square meter portion in controversy was residential, as claimed by petitioners, or agricultural within the coverage of PD 27.

The appellate court on February 17, 1998 found the subject area to be agricultural and well within the coverage of PD 27. Thus:

ACCORDINGLY, the petition is hereby DENIED DUE COURSE and is DISMISSED. The decision of respondent DARAB is AFFIRMED. Costs against the petitioners.

SO ORDERED.[8]

In declaring the area as agricultural, the Court of Appeals sustained the findings of the DARAB-Region VII that petitioners failed to establish that the land was residential. Petitioners did not present the basic requirements for reclassification of agricultural land to residential land such as: (1) the certification of the Housing and Land Use Regulatory Board (HLURB) Deputized Zoning Administrator of the city or municipality concerned, or in its absence, the certification of the Regional HLURB Officer that the land use conforms with the approved Land Use Plan; and (2) certification from the DAR Regional Director that the land ceased to be economically feasible and

sound for agricultural use or a certification from the Deputized Zoning Administrator of the HLURB that the land or locality has become urbanized and has greater economic value for commercial, industrial or residential purposes. The appellate court cited *Qua vs. Court of Appeals*, G.R. No. 95318, 198 SCRA 236, 242 (1991), where we did not recognize the residential status of a parcel of land merely on the basis of tax declarations and in the absence of all the requirements for conversion of the use of agricultural land to residential.

In declaring as valid the award of the 750 square meter portion of Lot 5603 to private respondents, the Court of Appeals said that having become OLT beneficiaries of Lot Nos. 5602-B, 5774-5 and 5774-7 through reallocation, private respondents were entitled to the homelots found within Lot 5603, based on Letter of Instruction No. 705 dated June 10, 1978,[9] which allows acquisition of homelots actually occupied by the beneficiaries of P.D. No. 27, regardless of whether such homelots are located within or outside their farmlots.

The motion for reconsideration filed by petitioners was likewise denied, hence this petition where it is averred that the Court of Appeals erroneously interpreted the provisions of Letter Of Instruction No. 705 in relation to DAR Memo-Circular No. 8-80 in:

I ...NOT DECLARING AS NULL AND VOID THE REALLOCATION OF THE FARMLOTS OF IDENTIFIED TENANT-FARMERS JOSEFA APAN AND IGMEDIO BAGUIO TO THE RESPONDENTS NOTWITHSTANDING THE UNDISPUTED FACT THAT THE SAID RESPONDENTS ARE NEITHER IMMEDIATE MEMBERS OF THE FAMILIES OF JOSEFA APAN AND IGMEDIO BAGUIO NOR TENANT-FARMERS OF LOTS 5602, 5603 OR 5774;

II ...GRANTING TO THE RESPONDENTS THE DISPUTED 750-SQUARE-METER PORTION OF LOT 5603 AS THEIR HOMELOT IN VIOLATION OF LETTER OF INSTRUCTION NO. 705.[10]

Based on the aforesaid assignment of errors, the essential issue in this case is whether private respondents are tenant-farmers and are thus qualified as reallocatees of OLT areas under Memorandum Circular No. 8-80 Series of 1980[11] and are entitled to a homelot under Letter of Instruction No. 705.[12] This is a question of fact rather than of law for it casts doubt on the findings of the DARAB as affirmed by the Court of Appeals that private respondents are tenant-farmers who can avail of the benefits under Memorandum Circular No. 8-80 Series of 1980 and LOI 705.

In *Reyes vs. Court of Appeals*, G.R. No. 110207, 258 SCRA 651, 658 (1996), we distinguished between the two types of questions: there is a question of law when the doubt or difference arises as to what the law is pertaining to a certain state of facts, and there is a question of fact when the doubt arises as to the truth or falsity of alleged facts. Being a question of fact, it is beyond the office of this court in a petition for review under Rule 45 of the Revised Rules of Court, where only questions of law may be raised.[13] Although there are exceptions,[14] petitioners did not show that this is one of them. Additionally, petitioners, in raising the above issue, is in effect questioning the factual findings of the DARAB, contrary to the doctrine that findings of fact by administrative agencies are generally accorded great respect, if not finality by the courts because of the special knowledge and expertise over matters falling under their jurisdiction.[15] It must be stressed at this point that the DARAB has the jurisdiction on all agrarian disputes involving the implementation of agrarian laws, including PD 27.[16]

WHEREFORE, the instant petition is DENIED. The decision dated February 17, 1998 of the Court of Appeals is AFFIRMED. Costs against petitioners.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and De Leon, Jr., JJ., concur.
Buena, J., on official leave.

[1] Rollo, pp. 94-102.

[2] Id. at 70-91.

[3] 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.

[4] 2nd Paragraph, PD 27: The tenant-farmer, whether in land classified as landed estate or not, shall be deemed owner of a portion constituting a family-size farm of five (5) hectares if not irrigated and three (3) hectares if irrigated.

[5] Also known as DARAB-Region VII, Cebu City.

[6] Rollo, pp. 67-68.

[7] Id. at 90.

[8] Id. at 102.

[9] LOI No. 705:

WHEREAS, the homelot actually occupied by the tenant-farmer beneficiary is considered under Section 24 of Republic Act No. 3844, as amended, included in the leasehold and, therefore, is an integral part of his farm and is an indispensable factor in his farm operation;

WHEREAS, the farms transferred or to be transferred to tenant-farmer beneficiaries of the Land Transfer Program under Presidential Decree No. 27 usually do not include homelots occupied or used by said beneficiaries for residential purposes; and

WHEREAS, there is now a necessity to issue guidelines for the acquisition and transfer of homelots to the tenant-farmer beneficiaries of Presidential Decree No. 27;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, do hereby order and direct the transfer of the homelots actually occupied by tenant-farmers who are, or may be, beneficiaries of the Land Transfer Program under Presidential Decree No. 27 subject to the following guidelines:

1. If the homelot is located inside or outside the farmlot of the tenant-farmer beneficiary but on the same landholding of the landowner, the price of the homelot shall be computed on the basis of the price of the farm-lot transferred or to be transferred to such tenant-farmer under the provisions of Presidential Decree No. 27. The same rule shall apply if the homelot is located in another parcel of land belonging to the same landowner, or in which the same landowner has an interest in fee simple, but within reasonable distance or in the vicinity of the farm-lot transferred to the tenant-farmer beneficiary.
2. If the homelot occupied by the tenant-farmer beneficiary is far from his farm-lot, although owned by the same landowner, or even if within the same vicinity of the farm-lot but owned by another person, the price of the homelot shall be agreed upon between the tenant-farmer and the landowner: Provided, That the price shall not be more than the valuation under the pertinent provisions of Presidential Decree No. 76, as amended.
3. In case of disagreement, the Department of Agrarian Reform may, upon written request of the tenant-farmer beneficiary, acquire or expropriate said homelot for resale at cost to the latter in accordance with the provisions of Republic Act No. 3844, as amended, Presidential Decree No. 76, Presidential Decree No. 251, as amended, and other applicable pertinent laws.

4. Pending the acquisition of the homelot, the tenant-farmer shall not be removed, ejected or ousted therefrom and his peaceful possession thereof shall be preserved and maintained at all times.

Done in the City of Manila, this 10th day of June, in the year of Our Lord, nineteen hundred and seventy-eight.

[10] Rollo, p. 9.

[11] Memorandum Circular No. 8-80 Series of 1980-GUIDELINES IN THE DISPOSITION AND RE-ALLOCATION OF FARMHOLDINGS OF TENANT-FARMERS WHO REFUSE TO BECOME BENEFICIARIES OF PRESIDENTIAL DECREE NO. 27.

[12] See note 9.

[13] Salcedo vs. People, G.R. No. 137143, December 8, 2000, p. 7.

[14] Baricuatro, Jr. vs. Court of Appeals, G.R. No. 105902, 325 SCRA 137, 145-146 (2000).

[15] Crusaders Broadcasting System, Inc. vs. National Telecommunications Commission, G.R. No. 139583, 332 SCRA 819, 829 (2000).

[16] Rules of Procedure Governing Proceedings Before the DAR Adjudication Board and Different Regional and Provincial Adjudicators. Rule II, 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 matter 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. xxx

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