GRACIANO PALELE, PETITIONER, VS. HON. COURT OF APPEALS, (FOURTH DIVISION) AND TOMAS SOBREVIÑAS, RESPONDENTS.

G.R. No. 138289. July 31, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision,[1] dated February 4, 1999, of the Court of Appeals, reversing the decision of the Department of Agrarian Reform Adjudication Board (DARAB), which affirmed in toto the decision of the Department of Agrarian Reform Provincial Adjudication Board of Bataan awarding two parcels of land to petitioner Graciano Palele.

The background of the case is as follows:

The properties involved in this case form part of a larger tract of land, referred to as Lot No. 707, consisting of 9,939 square meters in Dinalupihan, Bataan. The original holder-cultivator of the lot was respondent Tomas Sobreviñas' father, Daniel, who had worked on the lot as a tenant since the 1920's. After Daniel died, Tomas succeeded to the possession of the said land.

On May 2, 1962, private respondent filed an application with the Department of Agrarian Reform for the purchase of Lot No. 707. He paid the purchase price of P810.66 in five installments and completed payments on the land on September 7, 1973.[2] However, despite his full payment of the purchase price, no deed of sale was issued to him, and the lot remained the property of the government.

In 1981, the lot was subdivided into four parcels, to wit:

Lot No. 2681

5,262 sq. meters

Lot No. 2682

563 sq. meters

Lot No. 2683

1,044 sq. meters

Lot No. 2679

3,070 sq. meters

TOTAL

9,939 sq. meters[3]

On September 25, 1990, petitioner applied for the purchase of Lot Nos. 2679 and 2683. On December 19, 1991, the DAR issued to him Certificate of Land Ownership Award Nos. 2361 and 2362, covering Lot Nos. 2679 and 2683, respectively. Not knowing these incidents, private respondent continued paying the real estate taxes on Lot No. 707. Upon learning of the issuance of CLOAs in favor of petitioner, he filed on August 18, 1992 a petition for cancellation of the certificates. The case was filed with the Department of Agrarian Reform Provincial Adjudication Board of Bataan or PARAD. On January 18, 1993, private respondent filed an amended petition for cancellation.

On September 23, 1993, the PARAD rendered judgment for petitioner. The dispositive portion of its decision reads:

> WHEREFORE, premises considered, a decision is hereby rendered as follows:
>
> - DECLARING protestant-petitioner to be disqualified to purchase the subject lots;
>
> - DECLARING TCT-CLOA 2362, covering Lot No. 2683, containing an area of 1,044 sq. meters, located at Brgy. Luacan, Dinalupihan, Bataan, issued in the name of Graciano Palele to be validly and correctly issued;
>
> - DIRECTING the Register of Deeds of Bataan to cancel TCT-CLOA No. 2361, covering Lot No. 2679, containing an area of 3,071 sq. meters, located at Brgy. Luacan, Dinalupihan, Bataan, issued in the name of Graciano Palele;
>
> - DIRECTING the Municipal Agrarian Reform Office, Dinalupihan, Bataan to initiate the conduct of a subdivision survey of the aforementioned Lot No. 2679, and thereafter issue a new CLOA, covering 1,000 sq. meters of the same to Graciano Palele and the rest be awarded to the actual occupants or to qualified beneficiaries as the case may be.
>
> No pronouncement as to cost.
>
> SO DECIDED.[4]

Private respondent appealed to the DARAB, but the latter affirmed in toto the decision of the PARAD.[5] Consequently, private respondent filed a petition for review before the Court of Appeals which, on February 4, 1999, reversed the decision of the DARAB and rendered judgment for private respondent. The dispositive portion of the Court of Appeals' decision reads:

> WHEREFORE, in the light of the foregoing disquisitions, the petition for review is hereby GRANTED. The decision of the respondent Department of Agrarian Reform Adjudication Board (DARAB), affirming the decision of the Provincial Adjudication Board, is REVERSED and SET ASIDE. Accordingly, Certificate of Land Ownership Award (CLOA) No. 2362, covering lot 2683, and CLOA No. 2361, covering lot 2679, are ordered RECALLED and CANCELLED.
>
> SO ORDERED.[6]

Hence, this petition for review on certiorari. Petitioner contends that:

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> - THE HONORABLE COURT OF APPEALS (FOURTH DIVISION) COMMITTED AN ERROR IN HOLDING THAT PRIVATE RESPONDENT TOMAS SOBREVIÑAS ACQUIRED A VESTED RIGHT ON THE SUBJECT LANDHOLDING WHICH IS A PART OF THE DINALUPIHAN LANDED ESTATE.
>
> - THE HONORABLE COURT OF APPEALS (FOURTH DIVISION) COMMITTED AN ERROR IN DISREGARDING THE FINDINGS OF FACTS OF THE DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD (DARAB, FOR BREVITY) AND THE RULES AND POLICIES ISSUED BY THE LATTER.[7]

After due consideration of the records, we find that the Court of Appeals erred in reversing and setting aside the decision of the DARAB.

First. At the time private respondent applied to purchase Lot No. 707 on May 2, 1962, the law in effect was R.A. No. 1199, otherwise known as the Agricultural Tenancy Act of the Philippines, which took effect on August 30, 1954. Pursuant to the said law, the then Land Tenure Administration, the implementing agency of the government, issued Administrative Order No. 2, which was approved on May 10, 1956. So far as pertinent to this case, §§ 14 and 16 of the order provided:

> Section 14. Persons Qualified to Purchase; Number of Lots Granted. - Subject to the provisions of Section 16 hereof, any private individual who is qualified to acquire and own lands in the Philippines and who will personally cultivate and/or occupy the lot or lots which may be sold to him, may be allowed to purchase not more than one (1) home lot and/or farm lot except that in case of farm lots with areas less than six (6) hectares, more than one (1) lot may be purchased provided, however, that the total area of the lots which may be sold to one person shall not exceed six (6) hectares.
>
> The cultivation of a farm lot by the husband or wife of the purchaser thereof, and by the members of the family of said purchaser who are dependent upon him or her for support shall be considered as his or her cultivation for the purpose of this section and of Sections 24 and 25 hereof.
>
> Section 16. Right of Preference to Purchase of Bona-fide Tenant, Bona-fide Occupant and Other Persons. - The bona-fide tenant and in his absence or if he fails to qualify under Section 14 hereof, the bona-fide occupant of a subdivision lot in a private agricultural land acquired by the government shall have the right of preference to purchase said lot. In the absence of the bona-fide tenant and/or bona-fide occupant or in case said tenant and occupant fail to qualify under Section 14 hereof and subject to the provision of said section, the following persons shall be preferred in the purchase of a farm lot and/or home lot, in the order in which they are named:
>
> (1) A person who is the purchaser of a farm lot or lots in an agricultural land acquired by the government, the production of which yields a net profit insufficient to maintain a decent standard of living provided, however, that he will be preferred only as to the portion of the farm lot applied for in the same agricultural land which if added to the area of the lot or lots already sold to him will not exceed six (6) hectares;
>
> (2) A person who is a resident of the municipality where the lot applied for is located.[8]

These provisions clearly require that the applicant should personally cultivate and/or occupy the land subject of the purchase. This requirement is reiterated in §§ 23 and 24 of the same order, viz:

> Section 23. Execution of Deeds of Sale. - The Chairman of the Land Tenure Administration shall execute a deed of sale conveying a subdivision lot in favor of the purchaser thereof upon payment by the latter of all rentals for the use of the said lot which are found to be in arrears, and of the selling price thereof in full, and upon the performance by said purchaser of all conditions required herein and in any agreement to sell made in his favor covering said lot. . . .
>
> Section 24. Conditions in Agreements to Sell, Deeds of Sale and Torrens Title. - It shall be a condition in all

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> agreements to sell and deeds of sale covering lots acquired under these rules and regulations that said lots shall be personally occupied and/or cultivated by the purchasers thereof. In case of a home lot, a purchaser thereof shall be deemed not to have complied with the condition therein set forth if within a period of two (2) years from the execution of the agreement to sell or deed of sale for said lot, he fails to construct thereon his place of residence. A purchaser of a farm lot who shall fail to start cultivation of said lot within six (6) months after the execution of his agreement to sell or deed of sale shall be deemed not to have complied with said condition. . . .[9]

Private respondent's application to purchase Lot No. 707 was approved by the Land Tenure Administration such that he was allowed to pay the purchase price on an installment basis. Hence, at the time respondent applied to purchase Lot No. 707 on May 2, 1962, he was a qualified purchaser in accordance with the law and its implementing rules, i.e., that he was personally cultivating and/or occupying the lot being purchased.

However, private respondent admitted that he had not personally occupied and cultivated Lot No. 707 since August 8, 1963, more than a year after his application to purchase the lot, because he had instituted tenants on his landholding. This is shown by the allegation in his comment on the petition that the enactment on August 8, 1963 of R.A. No. 3844, otherwise known as the Agricultural Land Reform Code, prevented him from ejecting the tenants on Lot No. 707.[10] In other words, as early as August 8, 1963, prior to his full payment of the purchase price of Lot No. 707, he had already failed to comply with the requirement of personal cultivation and/or occupation of the lot being purchased because he was allegedly prevented by law from ejecting the tenants thereon. However, contrary to respondent's claim, §36, paragraph (1) of R.A. No. 3844 provided for the ejectment of tenants on the ground that the landholder shall personally cultivate the land.[11] It was only upon the amendment of R.A. No. 3844 by R.A. 6839 on September 10, 1971 that personal cultivation as a ground for ejecting an agricultural lessee was abolished.[12]

It cannot be denied that private respondent had ceased to personally occupy and cultivate Lot No. 707 at least on August 8, 1963. Only a year after his application and before he had fully paid the purchase price of the land, private respondent had already instituted tenants on the said lot. This is clearly indicative of his circumvention of applicable agrarian reform laws. The fact that in 1992 he was surprised to know that the lot had already been subdivided into smaller parcels in 1981, two of which had already been awarded to petitioner, indicates quite clearly that he was not personally cultivating Lot No. 707. Thus, the Land Tenure Administration, and later the Land Authority, was justified in refusing to issue a deed of sale in favor of respondent even though he paid in full the purchase price of the lot.

While it is true that due process protects vested rights, and this Court would be the first to stress this basic principle, it is no less true that the guarantee cannot be invoked when, as in the case at bar, no right has been acquired at all because of non-compliance with the requirements of the law.[13]

Second. Respondent assails the finding of the PARAD, as affirmed by the DARAB, that petitioner was not an agricultural tenant of Lot No. 707. However, the Municipal Agrarian Reform Officers of Dinalupihan, Bataan certified that petitioner had succeeded his father, Joaquin, as the original allocatee and tenant of the lot and that he was the actual occupant and cultivator of the parcels of land later awarded to him. Additionally, in his Inventory Report, dated November 28, 1991, Municipal Agrarian Reform Officer Ernesto M. Dizon recommended the issuance to petitioner of the certificates of land ownership award. These documents were presented before the PARAD.[14] Indeed, petitioner built his house on Lot No. 2679, which is adjacent to Lot No. 2683.[15] This is significant because only tenants are entitled to a home lot as an incident of their tenancy rights.[16] Finally, in his motion for reconsideration before the DARAB, private respondent made the following allegation in arguing that petitioner has abandoned the landholding:

> . . . Appellee should apply for the purchase of Lot 3-B-16 which he is actively cultivating, and also the 3.5 hectare of Francisco Palele, in Bakong, Hermosa, Bataan. But why award those two lots (2679 and 2683) to appellee when he is not a bona fide tenant thereof? To be sure, respondent-appellee has violated Sec. 27 of R.A. 3844 in reference to prohibitions against an agricultural lessee, one of which proscribes working on additional landholdings belonging to another lessor without the knowledge and consent of his agricultural lessor (in this case, the petitioner-appellant.)[17]

Thus, private respondent impliedly admitted that petitioner was indeed a tenant on the disputed lots.

Petitioner applied for the purchase of the two lots on September 25, 1990, at the time when R.A. No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, was already in effect. Section 22 of that law provides:

> SEC. 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.
>
> . . . .
>
> A basic qualification of a beneficiary shall be his willingness, aptitude and ability to cultivate and make the land as productive as possible. The DAR shall adopt a system of monitoring the record or performance of each beneficiary, so that any beneficiary guilty of negligence or misuse of the land or any support extended to him shall forfeit his right to continue as beneficiary. The DAR shall submit periodic reports on the performance of the beneficiaries to the PARC.

Pursuant to this provision, the DARAB, after finding petitioner to have the necessary qualifications, issued to him CLOA Nos. 2361 and 2362, covering Lot Nos. 2679 and 2683, with areas of 3,071 and 1,044 square meters, respectively. However, as there were other occupants on Lot No. 2679, where petitioner's house was standing, CLOA No. 2361, which covered an area of 3,071 square meters, was cancelled by the DARAB and a new one was issued covering only 1,000 square meters, corresponding to the area awarded to petitioner as home lot in accordance with §24 of R.A. No. 3844. Memorandum Circular No. 1082 prescribes a maximum area of 1,000 square meters as home lots for agricultural tenants.[18]

Third. It is nevertheless contended that petitioner in effect abandoned the landholdings by cultivating the lot of his brother in Bakong, Hermosa, Bataan. This contention has no basis. As petitioner explained, his failure to cultivate the lots during the pendency of his application and his temporary cultivation of his brother's lot in March 16, 1991 was due to the eruption of Mt. Pinatubo which adversely affected the condition of the soil on the assailed lots. Indeed, for abandonment to occur, the tenant must have unequivocally and absolutely relinquished his occupation and cultivation of the lots. This is not so in this case. Petitioner continued to occupy Lot No. 2679 for residential and small backyard farming purposes, despite the fact that the eruption of Mt. Pinatubo made it impossible for him to continue with its cultivation. Moreover, under Memorandum Circular No. 10, series of 1983, the alleged abandonment of the land by the tenant does not automatically terminate the tenancy relationship as there must be a proper court declaration of such fact.[19] In this case, such court declaration of abandonment is wanting.

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Likewise, petitioner's cultivation of Lot No. 3-B-16, covering an area of more than one hectare, which is owned by respondent's family, does not pose any obstacle to petitioner's acquisition of the lots in question. The fact remains that petitioner is an actual cultivator of the two lots he had acquired. The Court of Appeals thought it impossible for petitioner to cultivate the two disputed lots when he was also cultivating Lot No. 3-B-16. This finding presupposes that it is only petitioner who is personally cultivating the land. But the requirement of personal cultivation of the land does not apply to the tenant alone. The law allows him to engage the assistance of his immediate farm household or members of his family in tilling the land.[20]

In conclusion, there is no cogent reason to set aside the findings of the PARAD which were affirmed in toto by the DARAB. By reason of the special knowledge and expertise of administrative departments over matters falling under their jurisdiction, they are in a better position to pass judgment thereon and their findings of fact in that regard are generally accorded respect, if not finality, by the courts.[21]

WHEREFORE, the decision of the Court of Appeals is REVERSED and the decision of the Department of Agrarian Reform Adjudication Board, affirming the decision of the Department of Agrarian Reform Provincial Adjudication Board for Bataan, is ordered REINSTATED.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, and De Leon, Jr., JJ., concur.
Buena, J., abroad on official business.

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[1] Per Justice Jainal D. Rasul and concurred in by Justices Conchita Carpio-Morales and Bernardo P. Abesamis.

[2] Rollo, p. 124.

[3] Id., p. 4.

[4] Id., p. 137.

[5] Id., p. 151.

[6] Id., p. 21.

[7] Id., pp. 6 & 8.

[8] Id., pp. 145-146 (emphasis added).

[9] Id., p. 147 (emphasis added).

[10] Id., p. 102.

[11] Gallardo v. Borromeo, 161 SCRA 500 (1988).

[12] Tinio v. Mina, 26 SCRA 512 (1968). The trend towards the rights of agricultural lessees to own the lands they were actually cultivating was continued during martial law with the issuance of several decrees: P.D. No. 27, effective October 21, 1972, which declared them owners of the land they were tilling; P.D. No. 316, effective October 22, 1973, which prohibited the ejectment of tenant-tillers from their farmholdings; and P.D. No. 583, effective November 16, 1974, which punished the unlawful ejectment of tenant-farmers from their landholdings.

[13] Tagum Doctors Enterprises v. Apsay, 165 SCRA 154 (1988).

[14] Rollo, pp. 120, 132-133.

[15] Id., p. 137.

[16] Cruz v. Court of Appeals, 129 SCRA 223 (1984).

[17] Rollo, p. 158.

[18] Sec. 75 of R.A. No. 6657 provides that the provisions of R.A. No. 3844, as amended, P.D No. 27, and other laws not inconsistent with the CARL of 1988 shall have suppletory effect.

[19] Rovillos v. Court of Appeals, 299 SCRA 400 (1998),

[20] Ooarde v. Court of Appeals, 280 SCRA 235 (1997).

[21] Philippine Merchant Marine School, Inc. v. Court of Appeals, 244 SCRA 770 (1995).

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