HEIRS OF FRANCISCO R. TANTOCO, SR., MARIA R. TANTOCO, ZOSIMO TANTOCO, MARGARITA R. TANTOCO, AND PACITA R. TANTOCO, PETITIONERS, VS. HON. COURT OF APPEALS, HON DEPARTMENT OF AGRA...

G.R. NO. 149621. May 05, 2006

Ponente: AZCUNA, J.

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AZCUNA, J.:

Before this Court is a petition for review on certiorari under Rule 45 of the Rules of Court seeking the annulment of the Decision, dated December 15, 2000, and Resolution, dated May 25, 2001, of the Court of Appeals in CA-G.R. SP No. 54970 entitled "Heirs of Francisco R. Tantoco, Sr. et al., vs. Hon. Department of Agrarian Reform Adjudication Board (DARAB), Agrarian Reform Beneficiaries Association of San Francisco, Gen. Trias, Cavite, et al."

Petitioners seek the cancellation of the collective Certificate of Land Ownership Award (CLOA) or TCT No. CLOA-1424 issued by the Department of Agrarian Reform (DAR) to the Agrarian Reform Beneficiaries Association (ARBA) of San Francisco, Gen. Trias, Cavite, on the ground that TCT No. CLOA-1424 is null and void for having been issued illegally and unlawfully. Consequently, petitioners pray for the reinstatement of TCT No. T-402203 in their favor over the property involved in this case.

The facts[1] of the case are as follows:

Francisco R. Tantoco, Sr., Marta R. Tantoco, Zosimo Tantoco, Margarita R. Tantoco and Pacita R. Tantoco owned a vast tract of land with a total land area of 106.5128 hectares in San Francisco, General Trias, Cavite. This land was registered in their names under Transfer Certificate of Title (TCT) No. T-33404 of the Register of Deeds for the Province of Cavite.

A portion of said property consisting of 9.6455 hectares was declared exempt from the coverage of Presidential Decree (PD) No. 27, hence the Certificates Land Transfer (CLTs) that had been previously issued to several people were cancelled in an Order issued by then Minister of Agrarian Reform Heherson T. Alvarez.

On April 21, 1989, petitioners donated 6.5218 hectares to Caritas de Manila, Inc., thereby leaving an estimated area of 100 hectares to their landholding under TCT No. T-402203, which is now the subject matter of the controversy.

Meanwhile, the Department of Agrarian Reform (DAR) had been considering the land in question for compulsory acquisition pursuant to Republic Act (R.A.) No. 6657, as amended, otherwise known as the Comprehensive Agrarian Reform Law (CARL) of 1988.

On May 8, 1989, Francisco R. Tantoco, Sr., as owner and for and in behalf of the other co-owners, wrote to DAR declaring the productive nature and agricultural suitability of the land in dispute, and offering the same for

acquisition under the Voluntary Offer to Sell (VOS) scheme of the government's Comprehensive Agrarian Reform Program (CARP). The land was offered for sale at P500,000 per hectare or for a sum of P53,256,400.[2] According to petitioners, they never heard anything from DAR thereafter.

It was only on June 25, 1993 that petitioners received a Notice of Land Valuation from DAR valuing the land in question, which had now been accurately measured to have a total land area of 99.3 hectares, in the amount of P4,826,742.35.

On July 8, 1993, petitioners rejected the amount offered by DAR as compensation for the subject property for being unreasonably below the fair market value of said lot. Petitioners likewise withdrew their voluntary offer to sell adding that the land is not suitable for agriculture anymore and that it had been classified in 1981 for use by the Human Settlements Regulatory Commission (now HLURB) as land for residential, commercial or industrial purposes. Nevertheless, petitioners expressed that in the event that the DAR would still insist on acquiring the land, petitioners will be exercising their right of retention over an area aggregating to 79 hectares, divided among the co-owners at five (5) hectares each, and three (3) hectares each to their thirteen (13) children qualified to be beneficiaries under the CARP. [3]

In a letter dated July 16, 1993, after rejecting the aforestated land valuation, petitioners requested that the offer of P4,826,742.35 for the subject property be applied instead to their other irrigated landholding consisting of 9.25 hectares in Brgy. Pasong Camachile, General Trias, Cavite which is covered by TCT No. 33407.[4]

In view of petitioners' rejection of the offer, the DAR, through its Regional Director Percival C. Dalugdug, requested the Land Bank of the Philippines (LBP) on July 22, 1993 to open a Trust Account in favor of petitioners for the amount of FOUR MILLION EIGHT HUNDRED TWENTY-SIX AND SEVEN HUNDRED FORTY-TWO AND THIRTY-TWO CENTAVOS (P4,826,742.32) representing the assessed value of the subject property. [5]

A Certification was subsequently issued by the LBP Bonds Servicing Department on July 27, 1993 stating that the sum of P4,826,742.35 in cash (P1,834,162.10) and in bonds (P2,992,580.25) had been "reserved or earmarked" as compensation for petitioners' 99.3 hectares of land under the CARP's VOS scheme.[6] The cash portion of P1,834, 162.10 was placed with the Trust Department but no release of payment in cash or in bonds had been effected.[7]

Thereafter, or on August 30, 1993, the DAR issued a collective Certificate of Land Ownership Award (CLOA) over the subject property to private respondent Agrarian Reform Beneficiaries Association (ARBA) of San Francisco, General Trias, Cavite.[8] Public respondent Register of Deeds consequently issued TCT No. CLOA-1424 in favor of ARBA and its 53 members, and accordingly cancelled petitioners' TCT No. T-402203.

Upon learning of the cancellation of their TCT on the above property, petitioners filed an action for Cancellation of TCT No. CLOA-1424, and the reinstatement of their TCT No. T-402203 before the Adjudication Board for Region IV of the Department of Agrarian Reform on November 11, 1994.[9]

Docketed as DARAB Case No. IV-Ca-003-94, the petition alleged, inter alia, that the land in question was covered by an ongoing industrial estate development site per land use plan of the Municipality of General Trias, Cavite; that the land had been planted with sugar and declared as such for taxation purposes under Tax Declaration No. 12502-A; that in an Order dated September 1, 1986, of then Minister of Agrarian Reform Heherson Alvarez, the same land was declared outside the ambit of PD No. 27; and that the property is within the portion of Cavite that had been declared as an industrial zone in the CALABARZON area, hence, the value of real properties included therein had greatly appreciated.[10]

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Petitioners alleged that as a result of the implementation of the CARL in June of 1988, and coupled with the knowledge that the area had been declared part of the industrial zone of Cavite, persons unknown to petitioners began to claim to be tenants or farmholders on said land, when in truth and in fact, petitioners never had any tenant or farmworker at any time on their land, and neither did petitioners give their consent for anyone to farm the same "which is suitable for sugarcane, residential or industrial purposes and not for rice or corn or other industrial products.[11]

Petitioners added that due to the annoying persistence of DAR officials and employees who kept on coming back to the residence of Francisco R. Tantoco, Sr., in Quezon City, the latter was constrained to offer to sell the subject land under the VOS scheme for P5 million originally per hectare; that, thereafter, petitioners did not receive any reply from DAR, hence, they paid the real property tax due on the land for 1994 on March 28, 1994; that, afterwards, their title to the land under TCT No. T-402203 dated April 19, 1994 was cancelled without prior notice and in lieu thereof, TCT No. CLOA-1424 dated August 30, 1993 was issued by the Register of Deeds in favor of ARBA whose 53 members are not tenants and are unknown to them and are likewise not qualified or are disqualified to be beneficiaries under Republic Act (R.A.) No. 6657.[12]

Finally, petitioners claimed that some officials and employees of DAR Region IV, the MARO of General Trias, Cavite, the Land Bank of the Philippines, and the Register of Deeds of Cavite, with intent to gain, conspired with other private persons and several members of ARBA to deprive petitioners of said land or its fair market value or proceeds thereof, and committed the crime of falsification of public documents by making it appear that the offer to sell was at P500,000 per hectare instead of P5,000,000 per hectare; that the value of adjacent lands to petitioners' property were disregarded in determining just compensation; that no notices were received and the alleged receipts of notice were falsified; that no trust account was ever opened in favor petitioners and neither payment in cash or bond was ever made by DAR; that ARBA and its members are not actually tilling the land for productive farming and have not paid LBP the assigned valuation of the land; and, that the former are negotiating to sell the land to land developers and industrial companies, among others, in the hope of making a windfall profit.

Thus, petitioners prayed for the cancellation of the TCT No. CLOA-1424, and that TCT No-402203 in the name of petitioners should be reinstated. They likewise prayed for the issuance of a preliminary injunction to restrain ARBA from negotiating to sell the property in question to any interested parties.

ARBA, in its Answer, denied the allegations contained in the petition, maintaining that the farmer beneficiaries listed in TCT No. CLOA-1424 are qualified beneficiaries as provided for in Section 22 of RA No. 6657; that due process was observed in the documentation and processing of the CARP coverage of subject parcel of land in accordance with DAR Administrative Orders and that the issuance of TCT No. CLOA-1424 was in accordance with the provisions of R.A. No. 6657; and, that the subject property is classified as agricultural land, hence, regardless of tenurial arrangement and commodity produced, the land is considered to be within the coverage of the CARL or R.A. No. 6657.

In its Supplemental Answer of December 29, 1994, ARBA further stated that after the land had been voluntarily offered for sale to DAR the only matter to be determined is the just compensation to be given to the landowners. Therefore, the only issue to be resolved is the valuation of the property and not the cancellation of the CLOA.

In addition, ARBA posited that the injunctive relief prayed for in the petition is unnecessary because the property is automatically subject to the prohibition against transfer under R.A. No. 6657 which prohibition is indicated in TCT No. CLOA-1424.

Incidentally, petitioner Francisco R. Tantoco, Sr., died during the course of the proceedings on September 2,

1995, and was duly substituted by his surviving heirs.[13]

On June 17, 1997, the DAR Regional Adjudicator for Region IV, Fe Arche-Manalang, rendered a Decision, the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered:
>
> 1) Declaring the subject property more particularly described in Paragraph 5 of the Petition as properly covered under the VOS (Voluntary Offer to Sell) scheme of the government's Comprehensive Agrarian Reform Program (CARP) pursuant to the provisions of RA 6657, as amended, without prejudice to the exercise by the Petitioners/co-owners of their respective right of retention upon proper application therefor;
>
> 2) Voiding and annulling TCT No. CLOA-1424 derived from CLOA (Certificate of Land Ownership Award) No. 00193535 issued and registered on August 27, 1995 and August 30, 1993, respectively, in the name of the Respondent ARBA (Agrarian Reform Beneficiaries Association) and its 53 Farmers-members;
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> 3) Directing the Respondent Register of Deeds of Cavite to:
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> a) effect the immediate cancellation of TCT No. CLOA-1424 mentioned in the preceding paragraph;
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> b) revalidate and reinstate TCT No. T-402203 in the joint names of Petitioners/co-owners, subject to its eventual coverage under CARP after the Landowners' retention areas have been properly determined/segregated and/or expressly waived;
>
> c) annotate at the back of Petitioners' title, their lawyer's lien thereon equivalent to five percent (5%) of the market value of the subject property as and by way of an adverse claim.
>
> 4) Directing the local MARO (Municipal Agrarian Reform Officer) of General Trias, Cavite and PARO (Provincial Agrarian Reform Officer) of Cavite to:
>
> a) undertake another identification and screening process and reallocate the remaining CARPable areas to patented qualified ARBs (Agrarian Reform Beneficiaries) in the area;
>
> b) generate individual CLOAS (Certificate of Land Ownership Awards) in favor of such identified ARBs.
>
> 5) Denying all other claims for lack of basis;
>
> 6) Without pronouncement as to cost.
>
> SO ORDERED.[14]

From the aforestated decision, petitioners and respondent ARBA separately appealed to the DAR Adjudication Board (DARAB) in Quezon City. Said appeals were consolidated and docketed as DARAB Case No. 6385.

The issues were summarized by DARAB as follows:

> "1. Whether or not the property co-owned by Petitioners under Title No. T-33404 located at San Francisco, General Trias, Cavite with an original area of 106.5128 hectares was properly subjected to CARP coverage pursuant to the provisions of RA 6657, as amended, otherwise known as the Comprehensive Agrarian Reform Law of 1988 (CARL);
>
> 2. In the affirmative, whether or not fatal infirmities or irregularities were committed in the valuation of the subject property and its subsequent titling and award in favor of Respondent ARBA;
>
> 3. Whether or not the Petitioners are entitled to the ancillary remedy of injunction and other specific reliefs sought viz: cancellation of TCT No. CLOA-1424 registered in the name of Respondent ARBA on August 30, 1993 and reinstatement of TCT No. 402203 in favor of Petitioners; [and,]

4. Whether or not the Petitioners and private Respondent ARBA are entitled to their separate claims for damages and attorney's fees."[15]

In resolving the controversy, DARAB condensed the issues posed by the respective parties by addressing the question: Can a Collective Certificate of Land Ownership Award validly issued pursuant to a Voluntary Offer to Sell scheme acquisition of the Comprehensive Agrarian Reform Program (CARP) be cancelled on the petition of the former owner on the mere suspicion that some of the names listed therein are not really qualified farmer-beneficiaries?[16]

On July 1, 1998, the DARAB rendered its ruling modifying the appealed decision of the Regional Adjudicator, to wit:

"WHEREFORE, premises considered, judgment is hereby rendered:

1) Affirming paragraphs 1, 5, and 6 (Nos. 1, 5 and 6) of the dispositive portion of the decision dated June 17, 1997 of the Honorable Adjudicator a quo but;

2) Reversing paragraph Nos. 2, 3 and 4 thereof;

3) Affirming the validity, legality and efficacy of TCT-CLOA No. 1424 issued to Respondent Agrarian Reform Beneficiaries Association of San Francisco, Gen. Trias, Cavite.

SO ORDERED."[17]

Petitioners filed a Motion for Reconsideration and a Supplemental Motion for Reconsideration which was denied by DARAB for lack of merit in a Resolution, dated September 6, 1999, as no new matters were "adduced by the movants which will warrant a reversal of the Board's decision."[18]

Claiming that respondent DARAB acted with grave abuse of discretion in rendering the aforementioned decision and resolution, petitioners appealed the same to the Court of Appeals.

On December 15, 2000, the court a quo rendered its assailed decision, the dispositive portion of which reads:

"WHEREFORE, the instant petition is hereby DENIED and is accordingly DISMISSED for lack of merit.

SO ORDERED."[19]

Petitioners' Motion for Reconsideration was likewise denied by the Court of Appeals in a resolution dated May 25, 2001.[20]Hence, this petition assigning the following errors:

I

RESPONDENT COURT OF APPEALS ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION WHEN IT RENDERED THE QUESTIONED DECISION DATED DECEMBER 15, 2000, IN COMPLETE DISREGARD OF LAW AND UNDISPUTED FINDINGS OF FACTS BY THE REGIONAL ADJUDICATOR IN HER DECISION DATED JUNE 17, 1997.

II

RESPONDENT COURT OF APPEALS ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION WHEN IT REVERSED THE DECISION OF THE REGIONAL ADJUDICATOR A QUO DECLARING ALL PROCEEDINGS BY DAR VOID FOR FAILURE TO OBSERVE DUE PROCESS CONSIDERING THAT RESPONDENTS BLATANTLY DISREGARDED THE PROCEDURE FOR THE ACQUISITION OF PRIVATE LANDS UNDER R.A. 6657, MORE PARTICULARLY, IN GIVING DUE NOTICE TO THE PETITONERS AND TO PROPERLY IDENTIFY

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THE SPECIFIC AREAS FOR EACH LISTED FARMERS-BENEFICIARIES OF RESPONDENT ARBA.

III

RESPONDENT COURT OF APPEALS ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION WHEN IT FAILED TO RECOGNIZE THAT PETITIONERS WERE BRAZENLY AND ILLEGALLY DEPRIVED OF THEIR PROPERTY WITHOUT JUST COMPENSATION, CONSIDERING THAT PETITIONERS WERE NOT PAID JUST COMPENSATION BEFORE THEY WERE UNCEREMONIOUSLY STRIPPED OF THEIR LANDHOLDING THROUGH THE DIRECT ISSUANCE OF TCT NO. CLOA -1424 TO RESPONDENT ARBA IN GROSS VIOLATION OF R.A. 6657.

IV

RESPONDENT COURT OF APPEALS ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION WHEN IT RENDERED ITS QUESTIONED RESOLUTION DATED MAY 25, 2001, DENYING THE MOTION FOR RECONSIDERATION DESPITE THE UNDISPUTED FACTUAL FINDINGS OF FACTS ON RECORD AND OF JURISPRUDENCE LAID DOWN BY THIS HONORABLE SUPREME COURT IN G.R. NO. 127876 ENTITLED "ROXAS & CO., INC. VS. HON. COURT OF APPEALS, ET AL." PROMULGATED ON DECEMBER 17, 1999.[21]

In sum, the principal issue to be resolved is whether or not the CLOA that had been issued by the DAR to ARBA may be cancelled based on the following grounds:

- The land in question is exempt from the coverage of CARP by reason of its inclusion in the industrial zone of CALABARZON;

- The DAR failed to conform strictly to the procedure for the acquisition of private agricultural lands laid down in RA 6657, hence, violating due process and consequently denying petitioners just compensation;

- ARBA and all its members have not paid the amortizations for the landholdings awarded to them as required under RA 6657 and DAR Administrative Order No. 6, Series of 1993;

- All 53 members of ARBA manifested their intent to negotiate for payment of disturbance compensation in exchange for the voluntary surrender of their rights over the awarded property which is a prohibited transaction under Section 73 of R.A. No. 6657, as amended, and in gross violation of DAR Administrative Order No. 2, Series of 1994; and,

- The ARBs did not cultivate the awarded property to make it productive in violation of Section 22[22] of the Act.

At the outset, petitioners claim that the subject property had been classified to be within the industrial zone of General Trias, Cavite even before the effectivity of R.A. No. 6657 in 1988, therefore, it should be outside the coverage of CARP.[23]

On this, the Court accords respect to the findings of the Regional Adjudicator who has the primary jurisdiction and competence to establish the agricultural character of the land in question which is properly within the coverage of CARP, thus:

"Even the petitioners' own evidence serves to buttress and affirm the inherent nature and character of the subject property as an agricultural land.... The same ha[d] been previously devoted to sugarcane production but at the time it was considered for acquisition by the DAR under the VOS scheme, it was found to be planted to various crops such as rice, corn and camote.... Petitioner Francisco R. Tantoco, Sr. himself in his letter of intent dated May 8, 1989 declared that the land offered for acquisition under [the] VOS was productive and suitable

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> [for] agricultural production.... It seems rather peculiar that after all these years when the subject property had already been awarded and distributed to its intended beneficiaries, it is only now that petitioners are belatedly heard to sing a different tune by claiming that the same had always been industrial. Petitioners apparently relied on the flip-flopping certifications of one Engr. Alfredo M. Tan II of the HLURB - Region IV who could not seem to make up his mind as to the exact zoning location of the subject property. On July 10, 1990, he certified that the subject property is "within the Agricultural Zone based on the Municipality's approved Zoning Ordinance under HSRC Resolution No. 42-A-3 dated 09 February 1981". After the lapse of several years or on January 10, 1995 to be precise, in a dramatic turn-around, he suddenly became vague and tentative. He then proceeded to certify that the same property "appears to be within the Industrial Area based on HSRC (now HLURB) Approved Land Use Map of General Trias per HSRC Resolution No. R-42-A-3 dated February 11, 1981."(Vide, Exhibit "R"). A more classic display of bureaucratic ineptitude and incompetence is hard to find and simply boggles the mind. Thus, no weight of credence at all can be attributed to either certification due to the vacillating tenor used which is not even worth the paper it is written on. Petitioners' heavy reliance on such an irresolute document is rather pathetic and certainly misplaced. Resolution Nos. 105 and 125 enacted by the local Sangguniang Panlalawigan on March 25, 1988 and September 8, 1988, respectively" are similarly rejected since there is no showing that the same were duly approved by the HLURB (Housing and Land Use Regulatory Board) or its preceding competent authorities prior to June 15, 1988 which is the date of effectivity of the CARL and cut-off period for automatic reclassifications or rezoning of agricultural lands that no longer require any DAR conversion clearance or authority. (Emphasis supplied) Still, owners of such agricultural lands which have been previously reclassified or rezoned to non-agricultural uses by LGUs (Local Government Units) and approved by the HLURB before June 15, 1988 are nonetheless required to secure exemption clearances from the DAR based on Section 3 (c) of RA 6657, as amended, and DOJ (Department of Justice) Opinion No. 44, series of 1990 (Vide, Dar Administrative Order No. 12, series of 1994 in relation to Administrative Order No. 6, series of 1994). As stated in the aforecited DOJ Opinion, "the legal requirement for the DAR clearance in cases of land use conversion from agricultural to non-agricultural uses applies only to conversions made on or after June 15, 1988, the date of the agrarian reform law's effectivity. Prior thereto, the powers of the HLURB and the Department of Finance to [re-categorize] lands for land use and taxation purposes, respectively, were exclusive. It is noted that the definition of "agricultural land" in RA 6657 excludes lands which have previously been classified as mineral, forest, residential, commercial and industrial areas. Viewed against this context, the subject property cannot be considered [as] falling within the category of reclassified lands as envisioned in Section 3(c) of RA 6657, as amended, and so specified in the aforementioned DOJ Opinion. (Emphasis supplied) Neither can petitioners hope [to] find any relief from the Order of then Minister Heherson T. Alvarez dated September 1, 1986 since it merely exempts the subject property from OLT (Operation land Transfer) coverage pursuant to PD 27 which embraces tenanted rice and corn lands only. If at all, the said Order even serves to bolster the agricultural nature of the subject property because of its long history as sugar land. Sugarcane production is certainly an agricultural activity by any norm or standard. The law defines the term as referring to the cultivation of the soil, planting of crops, growing of fruit trees including the harvesting of such farm products and other farm activities and practices performed by a farmer in conjunction with such farming operations done by persons whether natural or juridical". The scope and coverage of the CARL is so broad and all-embracing as to include all lands devoted to or suitable for agriculture regardless of tenurial arrangement and commodity produced.[24]
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> x x x
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> "... The inarguable [sic] fact remains that independent of such choice by the petitioners to voluntarily offer the subject property, the same would still be under the CARL which allows landowners a retention limit of only five (5) hectares and an additional three (3) hectares for each qualified child who at the time of the effectivity of the law is: 1) at least 15 years of age; and, 2) actually tilling the land or directly managing the farm."[25]

As pointed out, the property in question can be properly subjected to CARP. It was not re-classified nor converted from agricultural to non-agricultural use with the approval of the HLURB prior to the effectivity of the

Comprehensive Agrarian Reform Law (CARL) on June 15, 1988.

Having established that the land in question can be properly subjected to CARP, the next question is whether the DAR officials, in acquiring said property, performed their functions properly and strictly in accordance with the law.

A perusal of the records reveal that the DAR officials or its employees failed to comply strictly with the guidelines and operating procedures provided by law in acquiring the property subject to CARP.

Firstly, there were certain inconsistencies in the manner of selection by the DAR of the CARP beneficiaries who are members of ARBA. As found by the Regional Adjudicator:

> "As to the screening and identification of qualified potential CARP [b]eneficiaries, DAR field personnel are presumed to be properly guided by existing law and implementing rules and regulations (Vide, Section 22 of R.A. 6657, as amended; DAR Administrative Order No. 10, series of 1990). Redistribution of CARPable lands to the intended [b]eneficiaries may be done collectively or individually, whatever is economically feasible. In the instant case, however, all the 42 ARBs (Agrarian Reform Beneficiaries)/Applicants opted for individual ownership and the corresponding VOCF (Voluntary Offer Claim Folder) apparently processed as such (Vide, Exhibits "26 UU" to "26 DDD"). But surprisingly, in some inexplicable manner, the assailed CLOA (Certificate of Land Ownership Award) that was finally generated turned out to be collective in favor of the [r]espondent ARBA which failed to show notwithstanding the assurances of its counsel (Vide, TSN, Hearing of February 23, 1995, pp. 18-19) that it is duly registered with the appropriate government and non-government agencies. Moreover, the collective title suddenly sprouted 53 names when only 43 duly applied as [p]otential CARP [b]eneficiaries (Vide, CARP Form No. 3; Exhibits 26 EEE" to "26-UUU"; Exhibits "V-57" to "V-99." What is even more mysterious is that among the 53 ARBs listed in the aforementioned CLOA, only 29 accomplished the required application forms and 30 signed the corresponding APFUS. There is thus no basis for the MARO Certification of August 19, 1993 declaring all the 53 named FBs therein as having met all the qualifications for Potential Beneficiaries under Section 22 of RA 6657 (Vide, Exhibits "27" to "27-F"). Such unfounded action by the said official can only be described as whimsical and capricious. A re-screening is therefore imperative in order to prevent a grave miscarriage of justice especially on the part of those who applied and were excluded in the final award for no apparent reason at all. Upon the other hand, the MARO Claim Folder Transmittal Memo to the PARO dated May 15, 1991 carried a total of 42 signatories in the corresponding Application to Purchase and Farmers Undertaking (Vide, CARP Form No. 4, Exhibits "26-UU" to "26-DD", Exhibits "V-47" to "V-56" inclusive). When called to the witness stand, the local MARO and PARO could not adequately explain or justify the existence of such discrepancies (Vide, TSN Hearing of February 23, 1995 pp. 62-64; 89-92) which can only give rise to the speculation that verification and validation was done arbitrarily or in a haphazard manner. In thus committing a substantial deviation from the procedural mandate of the law Respondent DAR official in effect tolerated the insidious actuations of his subordinates who acted with grave abuse of discretion amounting to lack of jurisdiction. The resultant CLOA therefore and its derivative TCT is fatally flawed for having been issued without jurisdiction. The same does not even reflect the fractional share of each ARB as required in DAR Administrative Order No. 3, series of 1993.[26]

Secondly, the TCT No. CLOA-1424 was directly issued by the DAR in the name of ARBA without: (a) payment of just compensation; and, (b) initial transfer of title to the land in the name of the Republic of the Philippines, in contravention to Section 16(e) of R.A. No. 6657 which states:

> "(e) Upon receipt by the landowner of the corresponding payment or, in case of rejection or no response from the landowner, upon the deposit with an accessible bank designated by the DAR of the cash or in LBP bonds in accordance with this Act, the DAR shall take immediate possession of the land and shall request the proper Register of Deeds to issue a Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines.

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> (Emphasis supplied) The DAR shall thereafter proceed with the redistribution of the land to the qualified beneficiaries."

As already mentioned, the DAR immediately issued the CLOA to ARBA without first registering the property with the Registry of Deeds in favor of the Philippine Government. This administrative irregularity was made even worse by the fact that petitioners were not given just compensation which, under the law, is a prerequisite before the property can be taken away from its owners.

The case of Roxas & Co., Inc. v. Court of Appeals,[27] illustrates that a transfer of ownership over a property within the coverage of CARP can only be effected when just compensation has been given to the owners, thus:

> "Respondent DAR issued Certificates of Land Ownership Award (CLOA) to farmer beneficiaries over portions of petitioners' land without just compensation to petitioner. A Certificate of Land Ownership Award (CLOA) is evidence of ownership of land by a beneficiary under R.A. 6657, the Comprehensive Agrarian Law of 1988. Before this may be awarded to a farmer beneficiary, the land must first be acquired by the State from the landowner and ownership transferred to the former. The transfer of possession and ownership of the land to the government are conditioned upon the receipt by the landowner of the corresponding payment or deposit by DAR of the compensation with an accessible bank. Until then, title remains with the landowner. There was no receipt by petitioner of any compensation for any of the lands acquired by the government."

In the instant case, the Notice of Land Valuation that was sent by the DAR to petitioners on June 14, 1993, offered to compensate petitioners for their property in the total amount of P4,826,742.35 based on the valuation made by the LBP. Said amount was rejected by petitioners, prompting the DAR to open a Trust Account in the aforestated amount with the LBP in favor of petitioners. Pursuant to this, the LBP certified that the amount of P4,826,742.35 had been "reserved/earmarked" to cover the value of the subject property. This, however, did not operate to effect payment for petitioners' property in question as the law requires payment of just compensation in cash or Land Bank of the Philippines (LBP) bonds, not by trust account.[28]

This is in line with the pronouncement made by this Court in the case of Land Bank of the Philippines v. Court of Appeals,[29] wherein it upheld the decision of the Court of Appeals in "ordering the LBP to immediately deposit " not merely "earmark," "reserve" or "deposit in trust" " with an accessible bank designated by respondent DAR in the names of the following petitioners the following amounts in cash and in government financial instruments..."[30]

A similar ruling was articulated by the Court in the aforementioned case of Roxas v. Court of Appeals,[31] to wit:

> The kind of compensation to be paid the landowner is also specific. The law provides that the deposit must be made only in "cash" or "LBP" bonds. Respondent DAR's opening of trust account deposits in petitioner's name with the Land Bank of the Philippines does not constitute payment under the law. Trust account deposits are not cash or LBP bonds. The replacement of the trust account with cash or LBP bonds did not ipso facto cure the lack of compensation; for essentially, the determination of this compensation was marred by lack of due process. In fact, in the entire acquisition proceedings, respondent DAR disregarded the basic requirement of administrative due process. Under these circumstances, the issuance of the CLOA's to farmer beneficiaries necessitated immediate judicial action on the part of the petitioner.

In the implementation of the CARP, the Special Agrarian Courts which are the Regional Trial Courts, are given original and exclusive jurisdiction over two categories of cases, to wit: (1) all petitions for the determination of just compensation to landowners; and, (2) the prosecution of all criminal offenses under R.A. No. 6657.[32] What agrarian adjudicators are empowered to do is only to determine in a preliminary manner the reasonable compensation to be paid to the landowners, leaving to the courts the ultimate power to decide the question.[33]

The New Rules of Procedure of the DARAB, which was adopted on May 30, 1994, provides that in the event a landowner is not satisfied with the decision of an agrarian adjudicator, the landowner can bring the matter directly to the Regional Trial Court sitting as a Special Agrarian Court. Thus, Rule XIII, Section 11 of the aforementioned Rules states:

> Section 11. Land Valuation and Preliminary Determination and Payment of Just Compensation. --The decision of the Adjudicator on land valuation and preliminary determination and payment of just compensation shall not be appealable to the Board but shall be brought directly to the Regional Trial Courts designated as Special Agrarian Courts within fifteen (15) days from receipt of the notice thereof. Any party shall be entitled to only one motion for reconsideration.

The procedure for the determination of the compensation for the landowners under the land reform program was likewise outlined by this Court in Republic v. Court of Appeals:[34]

> "Thus, under the law, the Land Bank of the Philippines is charged with the initial responsibility of determining the value of the lands placed under land reform and the compensation to be paid for their taking.[35] Through notice sent to the landowner pursuant to [Section] 16(a) of R.A. No. 6657, the DAR makes an offer. In case the landowner rejects the offer, a summary administrative proceeding is held[36] and afterward the provincial (PARAD), the regional (RARAD), or the central (DARAB) adjudicator, as the case may be, depending on the value of the land, fixes the price to be paid for the land. If the landowner does not agree to the price fixed, he may bring the matter to the RTC acting as [a] Special Agrarian Court. This in essence is the procedure for the determination of compensation cases under R.A. No. 6657."

Also, Section 17 of R.A. No. 6657 provides guidance on land valuation, to wit:

> "Section 17. Determination of Just Compensation - In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and assessments made by the government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property as well as the non-payment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation."

Simply put, just compensation is the fair market value or the price which a buyer will pay without coercion and a seller will accept without compulsion.[37] Evidently, the law recognizes that the land's exact value, or the just compensation to be given the landowner, cannot just be assumed; it must be determined with certainty before the land titles are transferred.[38] Expropriation of landholdings covered by R.A. No. 6657 take place, not on the effectivity of the Act on June 15, 1988, but on the payment of just compensation.

The determination of just compensation under Section 16(d)[39] of R.A. 6657 or the CARP Law, is not final or conclusive -- unless both the landowner and the tenant-farmer accept the valuation of the property by the DAR, and the parties may bring the dispute to court in order to determine the appropriate amount of compensation, a task unmistakably within the prerogative of the court.[40]

Hence, petitioners' recourse in this case is to bring the matter to the Regional Trial Court acting as a Special Agrarian Court for the adjudication of just compensation. The price or value of the land and its character at the time it was taken by the Government will be the criteria for determining just compensation.[41]

As to the other grounds posited by petitioners for the cancellation of the CLOA issued to ARBA, Section IV-B of DAR Administrative Order No. 2, Series of 1994 enumerates some of the grounds for the cancellation of registered CLOAs, namely:

> 1) Misuse or diversion of financial support services extended to the ARBs (Section 37 of R.A. No. 6657);

2) Misuse of the land (Section 22 of R.A. No. 6657);

3) Material misrepresentation of the ARBs basic qualification as provided under Section 22 of R.A. No. 6657, P.D. No. 27, and other agrarian laws;

4) Illegal conversion by the ARB (Section 73, Paragraph C and E of R.A. No. 6657);

5) Sale, transfer, lease or other form of conveyance by a beneficiary of the right to use or any other usufructuary right over the land acquired by virtue of being a beneficiary in order to circumvent the provisions of Section 73 of R.A. No. 6657, P.D. No. 27, and other agrarian laws. However, if the land has been acquired under P.D. No.27/E.O. No. 228, ownership may be transferred after full payment of amortization by the beneficiary (Section 6 of E.O. No. 228);

6) Default in the obligation to pay an aggregate of three (3) consecutive amortization in case of voluntary land transfer/direct payment scheme, except in cases of fortuitous events and force majeure (Section 26 of R.A. No. 6657);

7) Failure of the ARBs to pay at least three (3) annual amortization to the LBP, except in cases of fortuitous events and force majeure; (Section 26 of R.A. No. 6657);

8) Neglect or abandonment of the awarded land continuously for a period of two (2) calendar years as determined by the Secretary or his authorized representatives (Section 22 of R.A. No. 6657);

9) The land is found to be exempt/excluded from P.D. No. 27/E.O. No. 228 or CARP coverage or to be part of the landowner's retained area as determined by the Secretary or his authorized representative; and,

10) Other grounds that will circumvent laws related to the implementation of agrarian reform program."

Petitioners ascribe the specific prohibited acts stated in Nos. 5, 7 and 8 of the above Administrative Order to ARBA and its member-beneficiaries which the Regional Adjudicator confirmed, thus:

> "What is worse is that except for certain sporadic plantings, the land has been generally left to lie fallow and uncultivated even with the award of the CLOA in Respondent ARBA's favor as revealed by the ocular inspection conducted on March 23, 1993 (Vide, TSN of same date). Such neglect can only toll the death knell for erring ARBs who also have been remiss in the payment of the annual amortization due which should have commenced within one year from the date of CLOA registration on August 30, 1993 (Vide, DAR Administrative Order NO. 6, series of 1993). In an undated instrument captioned as "Authorization" entered into sometime in 1993 (Vide, Annex "A", Petitioners' Ex-Parte Manifestation, etc. dated June 13, 1997, all the 53 FB-awardees manifested their intent to negotiate for payment of disturbance compensation in exchange for the voluntary surrender of their rights[42] which is a prohibited transaction under Section 73 of RA 6657, as amended, and DAR Administrative Order No. 02, series of 1994. Not only that. Strangely enough, in the protracted hearings that were conducted in this case, not one CLOA Beneficiary/ARBA member was presented to at least defend himself orally or by means of countervailing documentary evidence."[43]

Based on the above, it is clear that the ARBA and its members have committed acts to justify the revocation of the collective CLOA that had been issued by the DAR to the latter. The doctrine of primary jurisdiction, however, does not warrant a court to arrogate unto itself authority to resolve a controversy the jurisdiction over which is initially lodged with an administrative body of special competence.[44]

The failure of the DAR to comply with the requisites prescribed by law in the acquisition proceedings does not give this Court the power to nullify the CLOA that had been issued to ARBA. To assume the power is to short-circuit the administrative process, which has yet to run its regular course. DAR must be given a chance to correct its administrative and procedural lapses in the acquisition proceedings.[45]

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It is also worth noting at this juncture that the resolution of this case by the Department of Agrarian Reform is to the best advantage of petitioners since it is in a better position to resolve agrarian disputes, being the administrative agency possessing the necessary expertise on the matter and vested with primary jurisdiction to determine and adjudicate agrarian reform controversies. Further, the proceedings therein are summary and the department is not bound by technical rules of procedure and evidence, to the end that agrarian reform disputes and other issues will be adjudicated in a just, expeditious and inexpensive action or proceeding.[46]

WHEREFORE, in view of the foregoing, the petition is GRANTED and the Decision dated December 15, 2000 and the Resolution dated May 25, 2001 of the Court of Appeals in CA-G.R. SP No. 54970 are SET ASIDE. The case is hereby REMANDED to respondent Department of Agrarian Reform Adjudication Board (DARAB) for proper acquisition proceedings in accordance with the applicable administrative procedure.

No pronouncement as to costs.

SO ORDERED.

Sandoval-Gutierrez, (Acting Chairperson), Corona, and Garcia, JJ., concur.
Puno, (Chairperson), J. on leave.

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[1] Rollo, pp. 46-53; CA Rollo, pp. 43-55.

[2] Rollo, p. 165; CA Rollo, p. 138.

[3] Id.

[4] Exhibit "J" of Petition, Rollo, p. 118.

[5] Exhibit "K" of Petition, Rollo, p 120; CA Rollo, p. 140.

[6] Exhibit "M" of Petition Rollo, p.122.

[7] Exhibit "P" of Petition, Rollo, p. 125.

[8] Exhibit "O" of Petition, Rollo, p. 124.

[9] CA Rollo, pp. 310-346.

[10]Id. at 44.

[11] CA Rollo, pp. 44-45.

[12] Id.

[13] Francisco H. Tantoco, Sr. was duly substituted by his surviving heirs as petitioners, namely, Gracia Guzman Tantoco, Msgr. Francisco G. Tantoco, Jr., Alfredo Victor G. Tantoco, Jose Maria G. Tantoco, Antonio Angel G. Tantoco, Teodoro Juan G. Tantoco, Gracia Marie T. Trinidad and the children of the late Cynthia T. Medina per Order dated September 29, 1995, Rollo, Annex "G" of Petition.

[14] CA Rollo, pp. 370-372.

[15] Id. at 53.

[16]CA Rollo, p. 43.

[17] Id. at 59.

[18] Id. at 60.

[19]Rollo, p. 63.

[20] Id. at 65.

[21] Rollo, pp. 20-21.

[22]Section 22 of R.A. No. 6657 states: "...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 such beneficiary. The DAR shall submit periodic reports on the performance of the beneficiaries to the PARC." (Emphasis supplied)

[23]Lands already classified and identified as commercial, industrial or residential before June 15, 1988 - the date of the effectivity of the Comprehensive Agrarian Reform Law (CARL) - are outside the coverage of this law. Therefore, they no longer needed any conversion clearance from the Department of Agrarian Reform (DAR). (Jose Julio and Federico, All Surnamed Junio v. Ernesto D. Garilao, in His Capacity as Secretary of Agrarian Reform, G.R. No. 147146, July 29, 2005).

[24] CA Rollo, pp. 359-362.

[25] Id. at 363.

[26]CA Rollo, pp. 366-367.

[27] G.R. No. 127876. December 17, 1999, 321 SCRA 106, p. 127.

[28] Sta. Rosa Realty Development Corporation v. Court of Appeals, G.R. No. 112526, October 12, 2001, 367 SCRA 175.

[29] G.R. No. 118712, October 6, 1995, 249 SCRA 149.

[30] The transitory provisions of the DAR Administrative Order No. 02, Series of 1996, however, provides: "All trust accounts issued pursuant to Administrative Order No. 1, S. 1993 covering landholdings not yet transferred in the name of the Republic of the Philippines as of July 5, 1996 shall immediately be converted to deposit accounts in the name of the landowners concerned x x x."

[31] Supra, note 27.

[32] Republic v. Court of Appeals, G.R. No. 122256, October 30, 1996, 263 SCRA 758; Escaño, Jr. v. Court of Appeals, G.R. No. 101932, January 24, 2000, 323 SCRA 63.

[33]Republic v. Court of Appeals, G.R. No. 122256, October 30, 1996, 263 SCRA 758.

[34] G.R. No. 122256, October 30, 1996, 263 SCRA 758.

[35] Sec. 1, E.O. No. 405, June 14, 1990.

[36] Sec. 15(d), R.A. No. 6657.

[37] DAR Administrative Order No. 05, Series of 1998, Section 1-C.

[38]Paris v. Alfeche, G.R. No. 139083, August 30, 2001, 364 SCRA 110.

[39] Section 16(d) of R.A. No. 6657 states: "In case of rejection or failure to reply, the DAR shall conduct

summary administrative proceedings to determine the compensation for the land by requiring the landowner, the LBP and other interested parties to submit evidence as to the just compensation for the land, within fifteen (15) days from the receipt of notice. After the expiration of the above period, the matter is deemed submitted for decision. The DAR shall decide the case within thirty (30) days after it is submitted for decision."

[40] Sigre v. Court of Appeals, G.R. No. 109568, August 8, 2002, 387 SCRA 15.

[41] National Power Corp. v. Court of Appeals, No. L-56378, June 22, 1984, 129 SCRA 665.

[42]CA Rollo, pp. 384-390.

[43]Id. at 366-369.

[44] First Lepanto Ceramics, Inc. v. Court of Appeals, G.R. No. 117680, February 9, 1996, 253 SCRA 552, 558; Machete v. Court of Appeals, G.R. No. 109093, November 20, 1995, 250 SCRA 176, 182; Vidad v. Regional Trial Court of Negros Oriental, Branch 42, G.R. No. 98084, October 18, 1993, 227 SCRA 271, 276.

[45]Roxas & Co., Inc. v. Court of Appeals, supra.

[46] Quismundo v. Court of Appeals, G.R. No. 95664, September 13, 1991 201 SCRA 609.

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