

**DEPARTMENT OF AGRARIAN REFORM, REPRESENTED BY
SECRETARY HERNANI A. BRAGANZA, PETITIONER, VS. ESTATE OF
PUREZA HERRERA, REPRESENTED BY CARLOS HERRERA,
RESPONDENT.**

G.R. No. 149837. July 08, 2005

Ponente: CALLEJO, SR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-149837/>

CALLEJO, SR., J.:

Before the Court is a petition for review under Rule 45 of the Rules of Court, assailing the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 59460, exempting the Herrera Livestock Farm from the coverage of the Comprehensive Agrarian Reform Program (CARP); ordering herein petitioner Department of Agrarian Reform (DAR) to cease and desist from pursuing to cover the Herrera Estate under the CARP; and further directing the recall and cancellation of Certificate of Land Ownership Award (CLOA) No. 00071771 and other documents relative thereto.

The case stemmed from the following antecedents:

Pureza Herrera, a farmer by profession,[2] was the owner of a vast tract of land located in Sitio Ilaya, Talavera, Toledo City, covered by Transfer Certificate of Title (TCT) No. T-1384-19, with an area of 113.7941 hectares.[3]

On June 14, 1988, Republic Act (R.A.) No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL), took effect. Section 11 of the law provides that private agricultural farms devoted to commercial livestock, poultry and swine raising shall be subject to immediate compulsory acquisition and distribution after ten years from the effectivity of the law.

Sec. 11. Commercial Farming. - Commercial farms, which are private agricultural lands devoted to commercial livestock, poultry and swine raising, and aquaculture including salt-beds, fishponds and prawn ponds, fruit farms, orchards, vegetable and cut-flower farms, and cacao, coffee and rubber plantations, shall be subject to immediate compulsory acquisition and distribution after ten (10) years from the effectivity of this Act. In the case of new farms, the ten-year period shall begin from the first year of commercial production and operation, as determined by DAR. During the ten-year period, the government shall initiate the steps necessary to acquire these lands, upon payment of just compensation for the land and the improvements thereon, preferably in favor of organized cooperatives or associations, which shall hereafter manage the said lands for the worker-beneficiaries.

If the DAR determines that the purposes for which this deferment is granted no longer exist, such areas shall automatically be subject to redistribution.

The provisions of Section 32 of this Act, with regard to production and income-sharing, shall apply to commercial farms.

On March 16, 1989, Herrera filed an application[4] with the DAR for the deferment of the implementation of the

CARP over the property. She claimed, inter alia, that her property was used for raising livestock and harvesting coffee beans.

Meanwhile, on December 4, 1990, the Court promulgated its decision in *Luz Farms v. Secretary of the Department of Agrarian Reform*,^[5] declaring null and void Sections 3(b), 11, 13 and 32 of R.A. No. 6657, and, consequently, the Implementing Rules and Guidelines promulgated in accordance therewith.

Despite Herrera's application for deferment, Municipal Agrarian Reform Officer (MARO) Quintin Padua of Toledo City, undertook steps to place the property under the CARP. He sent notices of coverage of the property under the CARP on September 4, 1991.^[6] The matter was annotated at the dorsal portion of the certificate of title covering the property.^[7] Herrera also received notices on September 6, 7 and 23, 1991 requiring her, or a representative, to appear in a conference to point out the portion of the property she wanted to retain.

In the meantime, in light of the ruling of the Court in *Luz Farms*, the DAR issued Administrative Order No. 9, Series of 1993 on December 27, 1993, setting forth rules and regulations to govern the exclusion of agricultural lands used for livestock, poultry and swine-raising from CARP coverage. The order provides, inter alia, that private agricultural lands or portions thereof, exclusively, directly and actually used for poultry, livestock and swine raising as of June 15, 1988, should be excluded from the coverage of the CARP.

Despite the pendency of Herrera's application for the said deferment, the MARO proceeded with the ocular inspection of the property, along with the representatives of the Land Bank of the Philippines (LBP), the Department of Environment and Natural Resources (DENR), and the Barangay Agrarian Reform Council (BARC). The MARO was able to determine that about 101.9185 hectares of the property was covered by the CARP.^[8]

In the meantime, R.A. No. 6657 was amended by R.A. No. 7881, which was approved on February 20, 1995. Private agricultural lands devoted to livestock, poultry and swine-raising were excluded from the coverage of the CARL. On December 18, 1995, the DARAB dismissed the summary administrative proceedings for the determination of the just compensation to the landowner of the property without prejudice to the final result of the pending petition of Herrera.^[9]

Since she received no action on her first application for deferment, Herrera filed an Application for Exclusion/Exemption of her farmland with the DAR Municipal Office in Toledo City on August 7, 1995.^[10] Appended to her application were the following requisite documents:

- 1) Application for Exclusion/Exemption;
- 2) Xerox copy of TCT No. T-1384-19;
- 3) Xerox copy of Tax Declaration No. 19287;
- 4) Individual Income Tax Return covering the years 1987-1993;
- 5) Relocation Plan of the subject property;
- 6) Sketch Plan of the area applied for;
- 7) Affidavit of Pureza A. Herrera dated April 1996 that the property was devoted to the raising of large livestock, such as cows, carabaos, goats, horses and pigs;
- 8) Joint Affidavit of Eustaquio C. Cuizon and Bienvenida C. Canamo dated May 31, 1996 attesting that the subject landholding is devoted to raising of large livestock;

- 9) Site Inspection Report of DA Staff headed by Dr. Felicisimo Lentejas, Jr. dated August 2, 1995;
- 10) Certification from DA Regional Director dated August 14, 1995; and
- 11) Livestock Record/Inventory dated June 1, 1988.[11]

She was, however, unable to submit a certified copy of a business permit authorizing her to engage in livestock-raising. Hence, she was requested to submit the same, including a sketch plan indicating the facilities and the improvements thereon. Herrera failed to do so, claiming that she had complied with all the requirements. She also claimed that the proceedings before the DAR which ultimately placed the property under CARP coverage was premature, and prayed for an order for the MARO to cease and desist from taking further steps to place the property under the CARP.[12]

Before the resolution of Herrera's pending applications for exemption, and despite the dismissal of the summary administrative proceedings by the DARAB for the determination of the just compensation for the property, the DAR issued CLOA No. 00071771 on January 18, 1996 in favor of 72 agrarian reform farmer-beneficiaries covering 101.4294 hectares of the subject property. The registration of the said certificate with the Register of Deeds was suspended, however, due to Herrera's pending application.[13] The LBP pegged the value of the property at P1,666,022.29, and reserved the said amount as compensation to Herrera.

In the meantime, Herrera died intestate. Her estate was substituted as applicant. On October 25, 1996, her son, Carlos Herrera, filed an Opposition,[14] contending that he discovered that the property had been placed under the CARP only when he saw the annotation on the title thereto;[15] at that time, he was preparing the estate's evidence for the application for exemption. He asserted that the DAR proceedings placing the property under CARP coverage was premature,[16] because his mother had earlier filed the said application for deferment. He also alleged that based on the ruling of the Court in the Luz Farms case, the property was exempt from CARP coverage. He claimed that his mother started a livestock project in the property and raised cattle, carabaos, horses and goats as early as 1958, and by the late 1970s, there were about 90 heads of cattle, 30 heads of carabaos, herds of horses and about 60 heads of goats.[17] He claimed that only 83 hectares of the property was not suited for agriculture, and that the City of Toledo had approved a zoning ordinance reclassifying it as non-agricultural. Herrera prayed that:

WHEREFORE, premises considered, it is most respectfully prayed that after due notice and hearing, Resolution/Order be issued:

- Declaring that the coverage of the parcel in question under CARP was premature and without legal basis;
- Ordering the MARO of Toledo City to cease and desist from taking further steps to cover the said parcel under CARP pending resolution of the oppositor's petition for exclusion.
- Declaring that only about 30 hectares of the parcel is arable and suitable to agriculture, while the remaining area of about 83 hectares is unfit for agriculture and with topography of more than 18 percent in slope;
- Ordering the exemption of the parcel in question from CARP coverage, it being devoted to the production of commercial livestock.

Other reliefs and remedies which may be grantable under the premises are further prayed for.[18]

On the other hand, the MARO countered that (a) based on the Land Use Map prepared by the LBP and the DAR, as well as Tax Declaration No. 19287 filed in 1983, the property is classified as agricultural and actually used for such purpose; (b) the applicant failed to present a business permit from the City Treasurer to prove that she had been operating and maintaining a livestock business in the property before June 15, 1988; and (c) it was only on

November 26, 1996 that Carlos Herrera acquired 42 heads of Brahman cows.[19] The MARO further insisted that the ruling placing the property under the CARP was not premature.

In the meantime, MARO Marlieta Arriesgado conducted an ocular inspection of the property with Rolando Beboso, Livestock Inspector & Livestock Specialist of the Toledo City Veterinary's Office. She submitted the following Report dated November 7, 1996:

Actual livestock found/counted:

1) cattle - 62 heads (29 heads was recently acquired and of hybrid quality; kind - Brahman and Sta. Gertrudes; 33 heads are unleashed; 30% mixed-graded;

2) carabao - 20 heads, 20% mixed-graded; unleashed

3) goats - 27 heads; 25% mixed-graded

4) horse - 2 heads

Actual area (has.) used for grazing - undetermined

Approximate Area used for infrastructure/containment - 2 has. more or less

Topography - plain

The landholding is approximately a kilometer from the national highway and is separated by a private road. On the northwest portion, is hilly with wild grasses and shrubs. However, several coconut trees were growing. On the southeast portion, the topography is plain, also full of wild grasses and shrubs. No sign of cultivation, permanent trees, e.g., acacia, gemelina were found, Napier grass (*Pennisetum purpureum*) and cover crops were also found.

At the back of the house of the Herrera's was an infrastructure utilized as containment area of the hybrid cattles. It was made of strong materials. Per information adduced and as witnessed, the Herrera's are still in the process of re-establishing the sheds/infrastructure because the former infrastructure/sheds were blown away by several typhoons that struck in their place.[20]

The Regional Director, who was likewise the hearing officer, considered the Opposition filed by Carlos Herrera as part of the late Pureza Herrera's application for exemption.

On October 15, 1997, Legal Officer Elvie Luyao of the Provincial Agrarian Reform Office (PARO), Cebu City, submitted her report recommending that the application for exemption be granted, thus:

Foregoing premises considered, the undersigned respectfully recommends that one hundred (100) hectares of the subject land be excluded from CARP coverage for being actually, directly and exclusively used for livestock raising as of June 15, 1988; and, likewise, recommends that the remaining 1.4294 hectares be placed under CARP pursuant to RA 6657.[21]

The Report was submitted to the Agrarian Reform Regional Officer (ARRO) who, however, ignored the recommendation and issued, on November 11, 1997, an Order[22] denying for lack of merit the application for exclusion from the CARP coverage. He ruled that nothing in DAR Administrative Order No. 2, Series of 1989, provides, expressly or impliedly, that CARP coverage proceedings must cease and desist upon the filing of any application for deferment, exclusion or protest on all agricultural lands covered by the said administrative order.[23] He also stated that the subject landholding had been covered in 1991 and 1994, when first and second notices of coverage were sent to Pureza Herrera on September 4, 1991 and April 15, 1994.[24] Furthermore, the MARO had not received any application filed by Pureza Herrera for exclusion or deferment from CARP

coverage, to put him on guard or defer the placement of the subject property under the CARP. He also declared that there was a joint field investigation by the different representatives of the LBP, BARC, DENR and the MARO sometime in June 1994 and found that about 101.9185 hectares of the subject property was suitable for agriculture.[25]

On the claim of Pureza Herrera that the subject property was devoted to commercial livestock, the ARRO held that she failed to adduce substantial evidence that the subject landholding was devoted to livestock for commercial purposes. He maintained that while there were testimonies and affidavits submitted alleging the presence of livestock in the property,[26] such evidence had no probative weight absent documentary evidence, such as a business permit issued to the applicant by the government agencies concerned, to prove that she was engaged in the livestock pasture business, and Certificates of Ownership of Livestock issued by the Municipal/City Treasurer of Toledo City, before June 15, 1988. He emphasized that under Administrative Order No. 9, Series of 1993, the applicant must present, among others, a certified true copy of a business permit issued by the concerned government agencies, or proof of ownership of livestock, poultry or swine, which the applicant failed to do so.[27]

The ARRO also declared that while Regional Director Vicente Y. Majaducon of the Department of Agriculture issued a Certification dated August 14, 1995 stating that the subject landholding is devoted to the raising of livestock, there is no indication as to the period when such activity started.[28] He noted that, based on the records, Carlos Herrera acquired forty-two (42) heads of Brahman cows only on November 13, 1996,[29] and that as of October 25, 1995, no permit to operate a pasture business had been granted to Pureza Herrera on the subject landholding.[30] Thus, the ARRO concluded that she had never been engaged in livestock raising business prior to June 15, 1988. The decretal portion of the Order of the Agrarian Reform Regional Office (ARRO) reads:

- 3.) DIRECTING the Provincial Agrarian Reform Officer of Cebu (PARO) to expedite the registration of the collective CLOA with the Registry of Deeds in favor of the seventy-two qualified farmer beneficiaries; and
- 4.) After registration of the said collective CLOA, the Provincial Agrarian Reform Officer of Cebu is hereby further directed to proceed with the distribution of individual CLOAs to the seventy two (72) qualified agrarian reform beneficiaries after final subdivision survey thereof.

SO ORDERED.[31]

The Estate of Pureza Herrera appealed the order to the Secretary of Agrarian Reform. On March 8, 1999, then Agrarian Reform Secretary Horacio R. Morales, Jr. issued an Order[32] dismissing the appeal and affirming the Order of the ARRO. He also denied the applicant's motion for reconsideration of the said order.[33]

The estate filed its petition for review under Rule 43 of the Revised Rules of Court before the CA, and posed the following issues for resolution:

I

THE HONORABLE SECRETARY OF AGRARIAN REFORM ERRED IN HOLDING THAT THE COVERAGE UNDER CARP OF THE ESTATE IS IN ORDER NOTWITHSTANDING THE PENDENCY OF THE APPLICATION FOR EXEMPTION.

II

THE HONORABLE SECRETARY OF AGRARIAN REFORM ERRED IN HOLDING THAT THE ESTATE FAILED TO PROVE THE EXISTENCE OF LIVESTOCK AS OF JUNE 15, 1988.[34]

The estate contended that the proceedings undertaken by the DAR to include the subject property under CARP

coverage was procedurally and substantially flawed: procedurally flawed because the proper time to do so was upon the finality of the Order denying the application for exemption; and substantially flawed because the act of placing the estate under CARP coverage during the pendency of the said application was tantamount to a pre-judgment on the issue of whether or not the property was a livestock farm as of June 15, 1988. Thus, according to the petitioner, when the DAR determined that the estate was covered by the CARP, the said Office, in effect, executed a "judgment" which had not yet been handed down.[35]

The estate further asserted that, based on the testimonies of Carlos Herrera, Barangay Captain Victorino dela Vega and three other witnesses, there was preponderance of evidence that there were about 71 to 72 heads of cattle, 24 heads of carabaos, 33 heads of horses and 38 to 40 goats on the property.[36]

In his comment on the petition, the respondent Agrarian Reform Secretary maintained that due to the failure of the estate to substantiate its application for exemption/exclusion, the property may be covered by the CARP. He insisted, among others, that if the estate had been really engaged in raising livestock, it should have presented more reliable and concrete evidence, such as documents showing that it was really engaged in such activity as required in every locality.

On June 29, 2001, the CA promulgated its assailed decision setting aside and reversing the orders of the Agrarian Reform Secretary, holding that the property was exempt from CARP coverage. The dispositive portion of the decision reads:

WHEREFORE, the instant petition is GIVEN DUE COURSE and GRANTED. The Orders of the Secretary of Agrarian Reform are hereby REVERSED and SET ASIDE. The Herrera Livestock Farm is EXEMPT from the coverage of the CARP.

The public respondent Secretary of Agrarian Reform is ordered to cease and desist from pursuing to cover under CARP the Herrera Estate and further directing the recall and cancellation of CLOA No. 00071771 issued on January 18, 1996 and other documents relative thereto.[37]

The CA, likewise, denied the DAR Secretary's motion for reconsideration of its decision.[38]

Hence, the instant petition.

The petitioner assails the CA decision, contending that the appellate court erred when it ruled, thus:

- THAT THE CHALLENGED CARP COVERAGE WAS BOTH PREMATURE AND A PRE-JUDGMENT SINCE AN APPLICATION FOR EXEMPTION OF THE LANDHOLDING INVOLVED WAS STILL PENDING; and

- THAT THE MERE PRESENCE OF LIVESTOCK IN THE AREA IS SUFFICIENT TO ESTABLISH THAT LIVESTOCK RAISING IS CONDUCTED BY THE LANDOWNER THEREAT.[39]

The petitioner reiterates that the proceedings undertaken by the MARRO, PARO and ARAPO to place the subject property under CARP coverage were just initial/preliminary steps for the implementation of the program, which is in accord with the mandate of Section 11 of R.A. No. 6657.[40] The said section empowers the petitioner to initiate necessary steps to acquire lands covered by the program. Furthermore, the landholdings of the late Pureza Herrera were determined to be within the CARP coverage after investigation. The petitioner further contends that by the provisions of R.A. No. 6657, it was under obligation to take initiatory steps to acquire lands, the subject landholdings included, whether their owners had applied for deferment or not. Besides, in the case at bench, the CLOA issued has yet to be registered. Moreover, when the application for exclusion of the subject property was filed sometime in 1995, no further action had been taken to acquire the same.[41] The petitioner, thus, argues that the CA erred when it ruled that:

The petitioner is correct in saying that the coverage of the Estate of Pureza Herrera under the CARP Law resulting in the generation of CLOA No. 00071771 issued on January 18, 1996 is premature because of a pending application for exemption. The action taken by the DAR is not in harmony both procedurally - for the reason that the right time to cover the Estate under CARP would be after a resolution dismissing the application for Exemption shall have become final, and substantially - because the act in covering the estate under the CARP during the pendency of the said Application was a pre-judgment on the issue of whether or not the estate was a livestock farm as of June 15, 1988.[42]

The petitioner avers that the respondent failed to prove that the subject property is devoted to the raising of livestock. It contends that the respondent had not adduced the required documents in evidence to prove ownership of the animals allegedly raised therein, as required by Administrative Order No. 9, Series of 1993. The testimonies of the witnesses, declaring that the landholding was used for livestock raising and development even before June 15, 1988, are mere secondary evidence, and cannot replace the documents required in the said administrative order. Testimonial evidence is merely secondary evidence and of minimal probative weight. The petitioner implies that the evidence of the respondent is contrived.

In its comment, the respondent argues that the issues raised by petitioner DAR involve questions of fact, and that this Court is proscribed by Section 1, Rule 45 of the Rules of Court from delving into and resolving the said issues.[43] It maintains that the decision of the appellate court is in accord with the evidence on record and the law.

The respondent contends that while it had filed its application for deferment (later on converted into an application for exclusion/exemption), the petitioner, particularly its municipal office, should not have initiated any proceedings to acquire its landholdings, and thereafter, placing it under the CARP coverage. It asserts that, as found by the appellate court, the petitioner prejudged the estate's application/s.[44]

The issue raised in the petition, in the main, is factual - whether or not the respondent adduced substantial evidence to prove that the landholding was used for the raising of livestock, poultry and swine before June 15, 1988. A question of law is also raised: whether the DAR should proceed with the placement of the property under the CARP before the resolution of petitions/applications of Herrera.

As a general rule, factual issues are not within the province of this Court; nevertheless, in light of the conflicting findings of facts of the government agency and the CA, this case falls under the recognized exceptions.[45]

The petition has no merit.

On the question of law, the ruling of the Court of Appeals that the MARO, ARRO and the DAR should have awaited the outcome of Herrera's petition for the deferment of the placement of the property under the CARP, as well as her application for exemption therefrom, is correct. The placement of the property under the CARP, and the issuance of the CLOA to the beneficiaries before the final resolution of the said petition/application rendered moot and academic, if not eschewed, the outcome of the said petition/application. Indeed, no less than the counsel of the MARO, as well as the beneficiaries, declared during the formal investigation conducted by the PARO, on February 20, 1997, that the outcome of the application for exemption was a prejudicial question to the propriety and legality of the placement of the property under CARP coverage:

ATTY. BARIL:

You mentioned of a claim folder of the Herrera landholding?

PLO BELTRAN:

Yes.

ATTY. BARIL:

There is already a claim folder?

PLO BELTRAN:

Yes, because it is (sic) already been processed as a matter of fact there is already a CLOA generated.

ATTY. BARIL;

Covering how many hectares?

PLO BELTRAN:

Covering out of 113 hectares only 101 hectares is generated but not registered.

ATTY. BARIL:

There is only one CLOA generated?

PLO BELTRAN:

Yes, a mother CLOA.

ATTY. BARIL:

When was the CLOA generated?

PLO BELTRAN:

Sometime in January 1, 1996.

ATTY. BARIL:

That is surprising because the application for (sic) was on the ground that the landholding should be excluded from coverage, otherwise, there should have been no coverage under CARP pending resolution on the application for livestock.

PLO BELTRAN:

Precisely, I am about to make a manifestation to the Honorable Investigating Officer that instead of tackling on the issue on the CARP protest, we might as well take up the first - the application for exemption, Your Honor, because it poses some kind of prejudicial question because pending the final resolution of the application for exemption, we cannot resolve on the propriety of the coverage.

INV.

So, your answer regarding the written protest of the CARP coverage shall be treated as your position paper?

PLO BELTRAN:

Yes, Your Honor.[46]

The records show that, while the petition/applications were pending before the ARRO, the MARO and the PARO were conducting parallel investigations to determine the propriety of placing the property under the CARP. The report of the PARO was endorsed to the RARO by the OIC-PARO on October 16, 1997.[47] The recommendation of the ARRO was submitted to and approved by the DAR Secretary. In fine, the DAR Secretary had already prejudged the very issues being resolved by the ARRO.

The petitioner's reliance on Section 11 of R.A. No. 6657 is misplaced. It must be recalled that on December 4, 1990, the Court nullified, *inter alia*, Section 11 of R.A. No. 6657. However, despite the nullification of the provision, the DAR, nevertheless, placed the landholding under the CARL and caused the issuance of the CLOA in the names of the beneficiaries.

It is true that under Administrative Order No. 2, Series of 1989, the MARO is not prohibited from taking appropriate steps to implement the compulsory acquisition of private agricultural lands under R.A. No. 6657. However, such Order is not a license for the DAR to ignore a landowner's application for the deferment of the inclusion of property under the CARP, and proceed posthaste to place the property under CARL coverage without violating the landowner's right to due process.

It must be stressed that in Section IV(c)(2)(b) of Administrative Order No. 2, Series of 1989, the landowner is requested to inform the DAR, particularly the Regional Director, whether he accepts the value offered or opts for a restitution, and if so, to indicate the specific area to be awarded to his qualified children. Thus:

- Notify landowner that his landholding will be acquired (CARP Form No. ____). The Notice shall be in writing and served to the landowner by personal delivery or registered mail with copies thereof posted in a conspicuous place in the municipal building and the barangay hall where the property is located.

The Notice shall contain the following:

- An offer to pay an amount initially determined by MARO and approved by the Regional Director, subject, however, to the final approval of the Secretary of Agrarian Reform;

- Advice to the landowner of his right to retain an area of not more than five (5) hectares each as preferred beneficiaries provided the children are:

- (a) 15 years of age or above as of June 15, 1988; and

- (b) Actually cultivating the land or directly managing the farm as of June 15, 1988.

In case the landowner opts for a retention, he shall indicate the specific area to be retained, including the area to be awarded to his qualified children, if any, within thirty (30) days from receipt of the Notice, otherwise, he and his children are deemed to have waived their rights to retain or to become preferred beneficiaries.

- (c) A request to the landowner to inform DAR, particularly the Regional Director, within thirty (30) days from receipt of Notice, whether or not he is accepting the value offered.

- If the offer or notice is rejected, or the landowner fails to reply to the Notice within thirty (30) days from receipt, the Regional Director shall, within five (5) days from receipt of landowner's rejection, or within five (5) days after the thirty-day period to reply has expired, direct the Legal Officer/Trial Attorney to conduct summary administrative proceedings to determine the just compensation to be paid the landowner.[48]

The landowner is, thus, placed in a no-win situation. If he/she complies with the Administrative Order, the application for exemption from CARP is deemed to have been waived; on the other hand, if the landowner does not comply with the Order, the subject property will be placed under CARP coverage even before the application/petition has been resolved by the ARRO, and the DAR, and ultimately, by the Court.

In this case, even the DARAB dismissed the summary proceedings for the determination of the reasonable compensation for the property, precisely for it to await the outcome of the proceedings before the ARRO, and so as not to render Herrera's petition/application moot and academic. Logically so, since to do otherwise would constitute a prejudgment of the said application/petition by the ARRO, and the DAR, which has appellate jurisdiction over the latter's decision. After all, the recommendation of the MARO is forwarded to the PARO,

whose recommendation is then forwarded to the ARRO who, in turn, forwards his recommendation to the DAR Secretary for final disposition.[49] On the other hand, the decision of the ARRO on such petition/application would be appealable to the DAR for review. It is, thus, clear that any action of the ARRO and the DAR Secretary on the placement of the property under the CARP would be a prejudgment of Herrera's application/petition.

We agree with the ruling of the Court of Appeals that the respondent adduced substantial evidence that, as early as 1958, and up to the filing of said petition/application, the subject property had been devoted to livestock, poultry and swine-raising. This finding was based on the sworn statements of Victorino dela Vega, Juanita Vergara, Zosimo Abellanos, Domiciano Geraldizo, Rosendo Abellanos and Casemiro Garces,[50] which constituted testimony on direct examination, and the testimony of Carlos Herrera. The Site Inspection Report[51] dated August 2, 1995, submitted by Dr. Felicisimo Lentejas, Jr., of the Department of Agriculture and his staff, confirmed the testimonial evidence of the respondent. In the said report, they found that when the livestock project was started sometime in 1958, with only a very limited number of initial breeders, coupled with a not-so-intensive kind of management, the farm was able to reach a 90-head level cattle production project, more than 60, 30 and 20 heads of goats, carabaos and horses, respectively, during the late seventies.[52] They also found that there were seven (7) households staying in the area and that their presence in the property was project/operations related. They made the following recommendations:

RECOMMENDATIONS:

- Considering the favorable farm features and the existence of animal stocks in the project, it is hereby recommended that the livestock production farm of Ms. Pureza Herrera be included as one of the DA's program cooperators under the Medium-Term Livestock Development Program.
- Consider Toledo City as one of the DA's Key Livestock Development Areas under the MTLDP.
- To correct in-breeding, a coordinated effort between the DA and the LGUs concerned is necessary in the provision of improved/high quality breeders to be utilized by the farm in its upgrading and production concerns.
- The DA through its Regional Field Office, may coordinate with the Local Government Unit of Toledo in the area of providing technical support/assistance by the following approaches:
 - a) Provide construction plans for farm structures required in the project.
 - b) Provide high-quality planting materials for forage/pasture and feed grain production.
 - c) Render animal health services in terms of vaccination, deworming and other related activities.
 - d) Extend animal breeding services through artificial insemination.
 - e) Provide production, post-production and marketing services.
 - f) Assist the project management in the formulation of a farm development plan.
- Mango production & propagation of other high-value commercial crops may be considered as project components to increase the farms' income-generating capacity, thus, promotion of appropriate technologies is necessary.[53]

The report is of persuasive probative weight because it is one of the documents required to be submitted by the petitioner/applicant under Administrative Order No. 9, Series of 1993, to enable the DAR to determine whether the livestock project is of greater economic value than the present agricultural usage. The findings of the Staff of the Department of Agriculture were confirmed by no less than the report of Atty. Elvie O. Luyao, Legal Officer of the PARO, who declared that:

There is no doubt, the Herrera livestock farm already existed prior to June 15, 1988, but testimonies from both camps differ as to the exact quantity of livestock existing as of that date. The Herreras averred an actual head

count of 177, but the opposing camp thru mere visual estimate (matamata), testified to about 35 heads for the second quarter of 1988. Faced with these conflicting claims, the inspection reports from the Department of Agriculture and the joint team composed of the two opposing camps and the technician of the City Veterinarian's Office can be resorted to in achieving a fair idea of the actual number of animals existing in the subject land as of June 15, 1988.

The Evaluation Inspection Report of the technical staff from the Department of Agriculture headed by Dr. Felicisimo Lentejas, Jr. reveals the type of animals being maintained by the Herrera Farm as of August 1995, to wit:

cattle - 52 heads

carabao - 17 heads

horses - 16 heads

goat - 13 heads

98 heads

Same report likewise speaks of the existence of infrastructure in the form of paddocks or holding areas (totaling to 16.5 hectares); one hectare all-weather road; an old driving corral; bodega; water pump; and a 20-square-meter water tank.

On the other hand, the Report on the Ocular Inspection, jointly conducted on November 7, 1996, by the MARO, BARC Chairman, landowner and Livestock Specialist from the City Veterinarian's Office, reveal the presence of the following animals, to wit:

cattle - 62 heads, of which, 29 are hybrid and 33 are of mixed grade and unleashed

carabao - 20 heads of mixed grade and unleashed

goats - 27 heads of which 25% are of mixed grade

horses - 2 heads

111 heads

The said joint report mentions only of about 2 hectares of containment sheds (in contrast to the 16.5 hectares previously reported), which apparently, are what remains undestroyed by the several typhoons that struck the subject land, thus, prompting the applicant to re-establish the destroyed/damaged infrastructure.

Using, as point of reference, the reported 98 head count in 1995, we cannot safely uphold the 35 head estimate of the MARO's camp because if we do that we will be confronted with an unbelievable and impossibly prolific livestock breeding farm. That would be contrary to the picture painted by the aforementioned reports. As a matter of fact, both reports described the Herrera livestock farm as just an ordinary farm, practicing traditional breeding methods and yet, on its own, without technical assistance from the Department of Agriculture, was able to achieve a 98 head level thru mere initiative and effort. All these facts, as reported, and in spite of constant depletion of stock (the farm being a major supplier of several meat stores), could only mean that the Herrera Livestock farm could not have achieved the 98 head level in 1995 if it had only 35 heads in June 1988. Moreover, the MARO's claim that the Herrera stock has been bolstered because of new acquisitions, it is not supported by evidence. All

the MARO could present are proof of acquisition of 20 Brahman cows, which could not even offset the depletion caused by supplying meat to Geraldizo and other meat stores.

The 177 heads (38 are goats), claimed by Carlos Herrera, as of June 1, 1988, is, however, in contradiction to the 100 heads claimed and reflected in Pureza Herrera's application for deferment filed in 1989. The difference in figures may, however, be attributed to subsequent depletion of stock due to sales. These rise and fall of the type and number of animals can also be observed from the two aforementioned reports. While the 1995 report mentioned a 98 head count including 16 horses, the 1996 report reflects an increase to 111 heads and a decrease in the number of horses to only 2. Foregoing informations considered, this investigator is inclined to believe the 100 heads reflected in the application for deferment.

Per Administrative Order No. 9, s. of 1993, the grazing ratio for livestock raising is one head to one hectare. In accordance thereto, one hundred (100) hectares of the subject landholding could be excluded from CARP coverage for being devoted to livestock raising as of June 15, 1988.[54]

She recommended, based on the findings, that:

RECOMMENDATION

Foregoing premises considered, the undersigned respectfully recommends that one hundred (100) hectares of the subject land be excluded from CARP coverage for being actually, directly and exclusively used for livestock raising as of June 15, 1988; and likewise recommends that the remaining 1.4294 hectares be placed under CARP pursuant to RA 6657.[55]

The burden of evidence was shifted to the MARO and the beneficiaries to rebut the respondent's evidence, and at which they failed. Indeed, the witness of the MARO, Marcelino Edoloverio, even corroborated the evidence of the respondent, as well as the foregoing findings and recommendation of the MARO, BARC Chairman, Livestock Inspector, Legal Officer, and the Staff of the Department of Agriculture, viz:

PLO Beltran:

Mr. Edoloverio, on those years that you worked in the landholding of the Herreras, specifically from 1950 to 1960, did you ever notice the presence of animals inside the hacienda?

Answer

A

Yes.

Q

Who owned the animals you saw inside the hacienda from 1950 to 1960?

A

From the tenants including mine.

x x x

Q

After 1960, were there other animals found on the area which were owned by Mrs. Herrera?

A

Yes. In 1963 or 1965, there were already animals in hacienda Herrera, who owned the animals.

Q

So in that year 1963 to 1965, there were already animals in Hacienda Herrera, who owned the animals?

A

Mrs. Herrera.

Q

Can you recall how many heads of these [were] owned by Mrs. Herrera?

A

Cows 3 or 4, carabaos, 3 or 4.

Q

All in all, there were only seven animals of types (sic) owned by Mrs. Herrera?

A

Yes, in that year.

x x x

Q

As the years progress, did you notice any changes in the quantity of these animals?

A

Yes.

Q

Did it increase or decrease?

A

It increased.

x x x

Q

In the second quarter of 1988, can you still recall if there were still animals found or raised in the hacienda?

A

Yes, there were already horses.

Q

Can you estimate more or less the number of heads of these animals that were already existing in the area?

A

If I'm not mistaken, there were 35 heads of animals including cows, carabaos and horses.

Q

Lately Mr. Edoloverio, have you noticed new acquisition of animals being undertaken by the family of Herrera after 1988?

A

Yes, there were new large cattles arriving in the hacienda.

(pages 5 to 7, TSN, Inv. March 24, 1997)

On cross-examination, same witness testified to the following:

Atty. Baril:

Q

Mr. Edoloverio, did you say that within the Herrera hacienda, you have a cultivation?

A

Yes.

x x x

Q

You are no longer cultivating said corn and palay portion?

A

Only the two parcels outside the fence.

Q

You mean to say that the other portion is inside the fence of the hacienda?

A

The fence extends only up to the creek.

Q

So, the two portions are protected from animals. How many portions of your farm cultivation is inside the fence which you are no longer cultivating?

A

Two.

Q

You have long time ago abandoned said portion?

A

In 1975, when Hacienda Herrera were already filled with animals.

Q

You said that in 1975, the number of animals in the hacienda increased in number. [Do] you know that fact

because almost everyday you saw the animals roaming in the Hacienda?

A

Yes.

Q

While you said that in 1975, the animals increased in number, can you actually state for the record the number of animals?

A

Akong matamata, thirty-five, more or less.

Q

When you say "matamata" you merely estimated the number of animals?

A

Yes.

(pages 7 to 8, TSN, Inv. March 24, 1997)[56]

The failure of the respondent herein, as petitioner/applicant in the DAR, to submit any business permit from the City Treasurer of Toledo City and certificates of ownership over the livestock as required by Administrative Order No. 9, Series of 1993, does not negate the credibility and probative weight of the evidence submitted by her.

It bears stressing that the certificates of ownership of livestock are merely evidence of their ownership. The bare fact that Pureza Herrera, who was a farmer, may not have submitted any certificate of ownership to the MARO is not proof that the livestock found in her property since 1958 were not hers.

First. The absence or presentation of certified true copies of business permits and certificates of ownership of livestock is not decisive of the outcome of the petition/application for deferment or exemption of landholdings from the CARP under Administrative Order No. 2, Series of 1989, Administrative Order No. 1, Series of 1990, and Administrative Order No. 9, Series of 1993.

Second. The respondent filed the petition for deferment on March 16, 1989. The DAR had not yet issued any rules and regulations governing petitions/applications for exemption of landholdings devoted to livestock from the coverage of the CARL.

Third. Administrative Order No. 9, Series of 1993 was approved merely to deter those landowners from depriving tenants of their rights as such tenants, in light of the ruling of this Court in Luz Farms. Since the respondent filed the petition for deferment even before the said ruling of the Court was promulgated, and in light of the evidence on record, it cannot be claimed that she thereby filed such petition for deferment and application for exemption to circumvent the ruling of the Court in Luz Farms.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED for lack of merit. The Decision dated June 29, 2001, of the Court of Appeals in CA-G.R. SP No. 59460, as well as its Resolution dated August 31, 2001, are AFFIRMED. No cost.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Bernardo P. Abesamis with Associate Justices Godardo A. Jacinto, and Eliezer R. De los Santos, concurring.

[2] Records, p. 10.

[3] CA Rollo, p. 42.

[4] CA Rollo, p. 40.

[5] G.R. No. 86889, 4 December 1990, 192 SCRA 51.

[6] CA Rollo, p. 46.

[7] Id. at 18.

[8] CA Rollo, p. 47.

[9] Id. at 23.

[10] CA Rollo, p. 43.

[11] Id. at 42.

[12] Records, pp. 96-99.

[13] Rollo, p. 11.

[14] CA Rollo, pp. 17-20.

[15] Id. at 18.

[16] Id.

[17] Records, pp. 96-99.

[18] Id. at 96-97.

[19] CA Rollo, pp. 21-30.

[20] Records, p. 64.

[21] Records, p. 332.

[22] CA Rollo, pp. 42-55; penned by Regional Director Jose C. Llames, CESO II.

[23] Id. at 46.

[24] Id.

[25] CA Rollo, p. 47.

[26] Id. at 48.

[27] Id. at 50.

[28] CA Rollo, p. 51.

[29] Ibid.

[30] Id. at 52.

[31] Id. at 54.

[32] Id. at 75-81.

[33] Id. at 82.

[34] CA Rollo, p. 7.

[35] Id. at 9.

[36] Id. at 10-11.

[37] CA Rollo, pp. 135-136.

[38] Id. at 152.

[39] Rollo, p. 13.

[40] Sec. 11. Commercial Farming. - Commercial farms, which are private agricultural lands devoted to commercial livestock, poultry and swine raising, and aquaculture including saltbeds, fishponds and prawn ponds, fruit farms, orchards, vegetable and cut-flower farms, and cacao, coffee compulsory acquisition and distribution after (10) years from the effectivity of the Act. In the case of new farms, the ten-year period shall begin from the first year of commercial production and operation, as determined by the DAR. During the ten-year period, the government shall initiate the steps necessary to acquire these lands, upon payment of just compensation of the land and the improvements thereon, preferably in favor of organized cooperatives or associations, which shall thereafter manage the said lands for the worker-beneficiaries.

If the DAR determines that the purposes for which this deferment is granted no longer exist, such areas shall automatically be subject to redistribution.

The provisions of Section 32 of the Act, with regard to production-and income-sharing, shall apply to commercial farms.

[41] Rollo, pp. 14-16.

[42] Id. at 36-37. (Emphasis supplied).

[43] Rollo, p. 58.

[44] Id. at 57-58.

[45] See *Jison v. Court of Appeals*, G.R. No. 124853, 24 February 1998, 286 SCRA 495; *Geagonia v. Court of Appeals*, G.R. No. 114427, 6 February 1995, 241 SCRA 152; *Consolidated Bank and Trust Corporation (Solidbank) v. Court of Appeals*, G.R. No. 91494, 14 July 1995, 246 SCRA 193; and *Suntay v. Court of Appeals*, G.R. No. 114950, 19 December 1995, 251 SCRA 430.

[46] Records, p. 180. (Underscoring supplied)

[47] Id. at 340.

[48] Administrative Order No. 2, Series of 1989.

[49] Administrative order No. 0-2, Series of 1989 was cancelled by Administrative Order No. 1, Series of 1990.

[50] Exhibits "B" to "H."

[51] Exhibits "I" to "I-1."

[52] Exhibit "I-1."

[53] Records, p. 272.

[54] Records, pp. 333-334.

[55] Id. at 332.

[56] Records, pp. 334-336

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.