

**JOSEPHINE A. TAGUINOD AND VIC A. AGUILA, PETITIONERS, VS.
COURT OF APPEALS, ANTONINO SAMANIEGO, JOSE DELA CRUZ,
JOHN SAMANIEGO, ERNESTO SANTOS, MACARIO DELA CRUZ,
ANDRES PASTORI...**

G.R. No. 154654. September 14, 2007

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

The Case

Were the petitioners able to prove that their lots were previously covered by homestead patents and thus outside the ambit of Presidential Decree No. (PD) 27[1] known as the Tenants Emancipation Decree? This is the core issue in this instant petition[2] under Rule 45 assailing the August 31, 2001 Decision[3] of the Court of Appeals (CA) in CA-G.R. SP No. 36812, which reversed and set aside the January 1, 1995 Decision[4] of the Office of the President (OP) in O.P. Case No. 5113, granting the retention of not more than seven (7) hectares in favor of petitioners. Likewise challenged is the August 7, 2002 CA Resolution[5] rejecting petitioners' Motion for Reconsideration.

The Facts

On October 21, 1972, then President Ferdinand E. Marcos promulgated PD 27 for the emancipation of tenant-farmers from private agricultural lands they till that are primarily devoted to rice and corn. Pursuant to PD 27, the Department of Agrarian Reform (DAR) launched Operation Land Transfer (OLT) on January 2, 1973 to implement and enforce the law's provisos of transferring ownership to qualified tenant-farmers or farmer-beneficiaries of the rice or corn land they are cultivating under a system of sharecrop or lease-tenancy, with the landowner having retention of not more than seven (7) hectares of agricultural land. In accordance with the OLT and to prevent its circumvention, Memorandum Circular (MC) Nos. 2 and 2-A, series of 1973, and MC No. 8, series of 1974, were issued by the DAR.

When OLT was launched, Salud Alvarez Aguila was the registered owner of the disputed lots with Transfer Certificates of Title (TCT) Nos. T-12368 and T-65348,[6] with an aggregate area of 10.4496 hectares, being 7.8262 hectares and 2.6234 hectares, respectively, both under the Registry of Deeds of Isabela, Cagayan. TCT No. T-12368 emanated from Original Certificate of Title (OCT) No. I-3423 which was issued on January 11, 1936 based on a homestead patent issued on December 18, 1935. On the other hand, TCT No. T-65348 was derived from TCT No. T-36200-A which cancelled OCT No. I-2965. OCT No. I-2965 was issued on May 27, 1935 on the basis of a homestead patent issued on June 27, 1935.

Subsequently, the 7.8262-hectare lot covered by TCT No. T-12368 was transferred to and registered in the name of petitioner Vic A. Aguila (who was then 14 years old) under TCT No. T-90872[7] dated January 19, 1976; while the other 2.6234-hectare lot under TCT No. T-65348 was transferred to petitioner Josephine A. Taguinod.

Both disputed lots were placed under the coverage of the OLT pursuant to PD 27, with the following tenants or farmer-beneficiaries, to wit:

TCT No. T-90872 Lot No. Area

1. Jose dela Cruz

1

1.0055 has.

2. Ernesto Santos 2 0.9353 ha.

3. Antonino Samaniego 3 0.8561 ha.

4. John Samaniego 4 0.6030 ha.

5. Macario dela Cruz 5 0.4702 ha.

6. Macario dela Cruz 6 0.9395 ha.

7. Andres Pastorin 7 0.7430 ha.

8. Ernesto Santos 8 0.7656 ha.

9. [Benetrino] dela Cruz 9 0.5806 ha.

10. Jose dela Cruz 10 0.4939 ha

TCT No. T-65348

1. Rodolfo Laguisma 1 1.2705 has.

2. Jesus Batac 2 1.2288 has.[8]

On January 26, 1976, or shortly after the transfer of the subject lot covered by TCT No. 90872 to petitioner Vic A. Aguila, Salud Aguila, on behalf of then minor petitioner Aguila, filed a notarized application for retention.[9] Much later, on October 24, 1984, when he was already of age, petitioner Aguila filed a letter-protest[10] for exclusion or exemption from the OLT of his landholding covered by TCT No. T-90872. Similarly, after acquiring the subject lot covered by TCT No. T-65384, petitioner Taguinod filed her June 24, 1988 letter-protest with the Team Leader of the DAR, Santiago, Isabela, seeking exclusion or exemption from the OLT of her landholding.

Meanwhile, the two subject lots were surveyed and a subdivision plan of the lots parceled to the farmer-beneficiaries was prepared and approved on July 11, 1987, with respondents-farmer-beneficiaries executing their respective "undertakings" to remit amortizations of their respective lots to the Land Bank of the Philippines (LBP).

On June 23, 1989, the DAR Municipal Agrarian Reform Officer (MARO) of San Fermin, Cauayan, Isabela sent a letter[11] to the Provincial Agrarian Reform Officer (PARO), recommending approval of the applications of Salud A. Aguila/Vic A. Aguila and Josephine A. Taguinod for retention of rights over the two subject lots.

The Ruling of the DAR PARO Officer in

In Re: OLT Protest Under P.D. No. 27, Vic Alvarez Aguila, Petitioner

On August 3, 1990, taking into consideration the MARO's recommendation, the PARO issued a Resolution granting the application for retention of petitioners. The decretal portion reads:

In view of the foregoing, it is respectfully recommended that an Order be issued:

- Granting the petition/application for retention under P.D. 27 of not more than seven (7) hectares.
- Cancelling the CLTs/EPs generated if any, in favor of Farmer-Beneficiary/ies concerned within the retention area.
- Plac[ing] under OLT coverage the excess of seven (7) hectares.
- Directing the MARO, Santiago, Isabela to cause the preparation and execution of Agricultural Leasehold Contracts between the petitioners and the tenant-tillers affected within the retention area.[12]

From the above PARO Resolution, respondents-farmer-beneficiaries filed an Opposition to and Counter-Protest over Resolution dated August 3, 1990 of the PARO[13] and a Motion for Reconsideration to Set Aside Resolution dated August 3, 1990.[14]

The Ruling of the DAR Regional Director
in ADM. Case No. 02-24-'90 Isa.

On August 21, 1991, the Regional Director of the DAR, Cagayan Valley Region 02, Tuguegarao, Cagayan issued an Order, which in effect affirmed the August 3, 1990 PARO Resolution with some modifications, thus:

WHEREFORE, premises considered, ORDER is hereby issued:

- Granting the petition/application for retention under PD 27 of not more than seven (7) hectares;
- Placing under OLT coverage the excess area of seven hectares;
- Directing the MARO concerned to cause the preparation and execution of agricultural Leasehold Contracts between petitioners and tenant-tillers affected within the retention area;
- Authorizing the petitioners to withdraw in their favor the lease rentals deposited with the Land Bank of the Philippines by the tenants, if any;
- Directing the tenants outside the retention area to pay the LBP the value of the land.[15]

The Regional Director held that the transfer of the subject lots by landowner Salud Aguila to petitioners on January 19, 1976 was a violation of MC Nos. 2, 2-A, and 8, and therefore null and void and of no effect; thus, ownership of the subject lots should revert to Salud Aguila. Nonetheless, since landowner Salud Aguila filed her petition/application for retention on January 26, 1976 in accordance with Administrative Order (AO) No. 4, Subsection B, paragraph 2, which provided that landowners should file their application for retention before August 27, 1985, the deadline set by AO No. 1, Series of 1985, she may retain not more than seven (7) hectares of her landholdings covered by PD 27, regardless of whether or not she complied with Letters of Instruction (LOI) Nos. 41, 45 and 52.

From this adverse ruling, private respondents filed their motion for reconsideration denominated as Motion to Set Aside Order dated August 21, 1991 with the DAR Regional Director,[16] where they contended, inter alia, that landowner Salud Aguila was not entitled to a seven (7)-hectare retention over the subject lots, as she was the owner of several other landholdings, specifically 11 parcels of land, at the time the subject lots were placed under

the coverage of the OLT program pursuant to PD 27. Private respondents submitted to the DAR a Certification from the Municipal Assessor of Santiago, Isabela, regarding Salud Aguila's ownership of a total of 13 landholdings, including the subject lots covered by TCT Nos. T-90872 and T-65348, with the corresponding copies of Tax Declarations covering the properties.

Petitioner Taguinod likewise filed a Motion for Reconsideration^[17] of the August 21, 1991 Order, asserting that Salud Aguila was not the real owner of TCT No. T-65348, as such was inherited by Taguinod from her biological mother, Patrocinia Alvarez, and was only mortgaged in 1971 to her adoptive mother, Salud Aguila, for which she executed a deed of sale with a right to repurchase. Petitioner Taguinod further contended that she had already redeemed said property which was allegedly rightly hers.

In addition, petitioner Taguinod filed her September 16, 1991 appeal from the August 21, 1991 Order of the Regional Director with the DAR Secretary.

The Ruling of the DAR Secretary in ADM Case No. 02-24-90 Isa.

On September 28, 1992, the DAR Secretary issued an Order^[18] affirming the August 21, 1991 Order of the Regional Director and denying petitioner Taguinod's appeal, with the modification that respondent Antonino Samaniego was disqualified as a farmer-beneficiary on the ground that he was the landowner of nine (9) agricultural properties even larger than the aggregate area of the subject lots. The decretal portion reads:

WHEREFORE, premises considered, Order is hereby issued affirming in toto the Order dated August 21, 1991 of the Regional Director of DAR Region II and in addition thereto disqualifying Antonio Samaniego as tenant-beneficiary of his tillage.^[19]

From the above order, private respondents filed a Motion for Reconsideration, pointing out that Antonio Samaniego was not the farmer-beneficiary but his son, Antonino Samaniego, who was the tenant-tiller of a portion of the subject lot under TCT No. T-90872. Moreover, private respondents asserted that contrary to the findings of the Regional Director and the DAR Secretary, they had presented proof that landowner Salud Aguila was not entitled to retention for she owned other properties aside from the subject lots.

Consequently, on January 6, 1993, the DAR Secretary issued an Order^[20] granting private respondents' Motion for Reconsideration, the fallo of which reads:

WHEREFORE, x x x the Order dated September 28, 1992 of this Office is hereby set aside. The MARO having jurisdiction over the subject property is hereby directed to execute the necessary correction, placing Antonino Samaniego as the rightful farmer-beneficiary.^[21]

The DAR Secretary found that Salud Aguila was disqualified to retain seven (7) hectares of the subject lots as she owned several landholdings other than the subject lots, and that Antonino Samaniego was qualified as farmer-beneficiary as he is not Antonio Samaniego but the son of the latter.

From the January 6, 1993 Order of the DAR Secretary, petitioners interposed their Appeal^[22] before the OP, docketed as O.P. Case No. 5113 (ADM Case No. 02-24-90).

The Ruling of the Office of the President
in O.P. Case No. 5113 (ADM Case No. 02-24-90)

The OP saw it differently.

On January 1, 1995, the OP, through the Executive Secretary, rendered a Decision reversing the January 6, 1993 Order of the DAR Secretary and reinstating the latter's September 28, 1992 Order, the dispositive portion of

which reads:

WHEREFORE, premises considered, the Order, dated January 6, 1993, of the Department of Agrarian Reform is hereby SET ASIDE. The earlier order of that Department, dated September 28, 1992, is hereby CONFIRMED and REINSTATED with a modification that subject landholdings are not covered by the OLT program of the government pursuant to P.D. No. 27. [23]

The OP primarily anchored its ruling on the fact that the subject lots were issued OCTs pursuant to homestead patents, specifically TCT No. T-90872 which was derived from OCT No. I-2423, and TCT No. T-65348 which was derived from OCT No. I-2965. Giving credence to petitioner Taguinod's contention that she and petitioner Aguila are the direct heirs of the original patentees or homesteaders of the subject lots, and pursuant to Commonwealth Act No. 141 or the Public Land Act, the OP held that the subject lots are exempt from the coverage of PD 27, citing *Alita v. Court of Appeals*. [24]

Private respondents filed a Motion for Reconsideration [25] of the above Decision, but this was denied through a Resolution [26] issued on February 24, 1995.

Aggrieved, private respondents assailed the above Decision and Resolution of the OP before the CA through a Petition for Review [27] under Rule 43.

The Ruling of the Court of Appeals

On August 31, 2001, the CA rendered the assailed Decision sustaining private respondents' position and granted relief, thus:

[T]he Petition is granted. The Decision of the Office of the President, Annex "C" of the Petition, and its Resolution, Annex "E" of the Petition, are set aside and reversed. The Order of the Secretary of Agrarian Reform, Annex "B" of the Petition, is AFFIRMED. [28]

In reversing the findings of fact and conclusions of law by the OP, the CA however agreed with the OP that the rights of the homesteader and his/her heirs to own and cultivate personally their land acquired under the "homestead laws" are superior over those of tenants invoking the "agrarian reform laws" as now embodied in Section 6 of Republic Act No. 6657; [29] however, it found that petitioners Taguinod and Aguila failed to discharge the burden of adducing evidence to prove the identities of the original homestead patentees and that they are the direct compulsory heirs of the original patentees.

The CA ratiocinated that both petitioners never claimed before the DAR and OP that Salud Aguila was the original homestead grantee of OCT No. I-3423 issued on January 11, 1936. It pointed out that it was only on August 13, 1959 or after 24 years from the issuance of the homestead patent that OCT No. I-3423 was cancelled and TCT No. T-12368 was issued in the name of Salud Aguila. But petitioner Aguila never adduced evidence on how and under what circumstances landowner Salud Aguila acquired the property, and whether she was indeed a compulsory heir of the original homestead patentee.

Likewise, the CA found that petitioner Taguinod never adduced evidence to prove that the subject lot covered by TCT No. T-65348, which she claimed she inherited from her biological mother, was inherited from the original homestead patentee of whom she and her biological mother are direct compulsory heirs. Moreover, the appellate court pointed out that while it is true that the Office of the Register of Deeds of Isabela was burned on December 4, 1976, still, petitioner Taguinod could have easily secured a certified true copy of the homestead patent from the Bureau of Lands or a certified true copy of the Owner's Duplicate of said title under the name of her biological mother or the original patentee as owner of said property. Petitioner Taguinod did not do so. Furthermore, the CA found that the records belie petitioner Taguinod's claims as TCT No. T-65348 in the name of Salud Aguila did not

show any encumbrance or lien. In fact, the CA found that petitioner Taguinod never showed any evidence that she indeed redeemed or repurchased the subject lot from Salud Aguila.

In fine, the CA concluded that the only evidence on record was that the subject lots were covered by homestead patents, but no shred of evidence on record showed who the patentees were and that petitioners are the direct compulsory heirs of the original patentees in order to preclude the subject lots from the coverage of the OLT program pursuant to PD 27.

Unconvinced, petitioners interposed a Motion for Reconsideration and Manifestation to Terminate Services of Counsel of Record[30] of said Decision where they terminated and changed their counsel de officio on the ground of lack of communication and concern over the instant case, and in seeking reconsideration, they contended, inter alia, that the homestead patentees of the subject lots were Salud Aguila, their adoptive mother, and Patrocinia Alvarez, the biological mother of petitioner Taguinod.

Finding no merit in petitioners' plea for recall of the assailed Decision, it was rejected through the assailed August 7, 2002 CA Resolution.[31]

Thus, this petition is before us.

The Issues

Petitioners present the following issues for consideration:

- The Honorable Court of Appeals acted in gross violation of the well entrenched jurisprudential principle that factual findings of quasi-judicial bodies or tribunals are binding on the appellate court if based on substantial evidence when it reversed and set aside the decision of the Office of the President and when it affirmed the Order of the Secretary of Agrarian Reform dated January 6, 1993 on ground [sic] that petitioners allegedly failed to prove by substantial evidence that: (1) the Homestead patentees are Salud Alvarez Aguila (the adoptive [parent] of petitioners Vic Alvarez Aguila and Josephine Taguinod) and Patrocinia Alvarez (the biological parent/mother of Josephine Taguinod); and (2) that petitioners Vic Alvarez Aguila and Josephine Taguinod are the direct compulsory heirs of the original homestead patentees, namely Salud Alvarez Aguila and Patrocinia Alvarez; and in so doing also acted with grave abuse of discretion amounting to lack or excess of jurisdiction.
- The Honorable Court of Appeals likewise failed to properly apply and/or that it misinterpreted the provisions of Presidential Decree No. 27 and related laws when it held that the subject parcels of land are not exempted nor excluded from the Operation Land Transfer program of the government under the said laws.
- That, in the alternative, if the subject parcels of land are covered by Presidential Decree No. 27 and related laws, still the ownership of the same cannot be transferred to the private respondents considering that petitioners who are small landowners are entitled to [the] retention of seven (7) hectares under Presidential Decree No. 27.[32]

The Court's Ruling

The petition is bereft of merit.

First and Second Issues:

Petitioners failed to adduce substantial evidence

As the two issues are closely related, we will tackle both of them together.

Power of review by the Court of Appeals on factual issues

Petitioners contend that the CA gravely abused its discretion in the exercise of its appellate jurisdiction by disregarding OP's findings of fact which were anchored on substantial evidence.

Rule 43 of the 1997 Rules of Civil Procedure provides the authority of the CA to review resolutions and decisions of quasi-judicial bodies on questions of fact. Thus, it is the appellate court which must determine if substantial evidence is extant on record to support the findings of fact of the quasi-judicial bodies. Such review is however guided by the long-settled doctrine that factual findings of administrative officials and agencies who have acquired expertise in the performance of their official duties and the exercise of their primary jurisdiction are generally accorded not only respect but at times, even finality if such findings are supported by substantial evidence.[33]

A close review of the DAR's findings of fact, starting from the August 3, 1990 PARO Order, the August 21, 1991 Order of the DAR Region 02 Regional Director, and the September 28, 1992 and January 6, 1993 Orders of the DAR Secretary vis-à-vis the January 1, 1995 Decision of the OP, however reveals a glaring disparity in the findings of fact. This is a clear exception to the rule that findings of fact of the quasi-judicial body are generally maintained. In view of the conspicuous divergence in the findings of fact, the CA is duty bound to review and ascertain which of said findings are duly supported by substantial evidence.

No substantial evidence to show ownership through homestead patent

Settled in this jurisdiction is the rule that the rights of a holder of a homestead patent are superior over the rights of the tenants guaranteed by the Agrarian Reform Law, as enunciated in *Alita*:

We agree with the petitioners in saying that P.D. 27 decreeing the emancipation of tenants from the bondage of the soil and transferring to them ownership of the land they till is a sweeping social legislation, a remedial measure promulgated pursuant to the social justice precepts of the Constitution. However, such contention cannot be invoked to defeat the very purpose of the enactment of the Public Land Act or Commonwealth Act No. 141. Thus, "The Homestead Act has been enacted for the welfare and protection of the poor. The law gives a needy citizen a piece of land where he may build a modest house for himself and family and plant what is necessary for subsistence and for the satisfaction of life's other needs. The right of the citizens to their homes and to the things necessary for their subsistence is as vital as the right to life itself. They have a right to live with a certain degree of comfort as x x x human beings, and the State which looks after the welfare of the people's happiness is under a duty to safeguard the satisfaction of this vital right." (*Patricio v. Bayog*, 112 SCRA 45)[34]

It is therefore incumbent upon petitioners to identify substantial evidence on record to support the OP's finding that their lots are excluded from the coverage of Comprehensive Agrarian Reform Program.

A comparison of the findings of fact of the OP and CA in relation to the evidence extant on record leads the Court to conclude that the findings of the OP are not propped up by substantial evidence.

The OP held that TCT No. T-90872 in the name of petitioner Aguila was issued cancelling TCT No. T-12368 in the name of Salud Aguila, which came from OCT No. I-3423, being a derivative of OCT No. I-2423. Such finding was not borne out by the records.

OCT No. I-2423 was issued on December 18, 1935 based on a homestead patent. If that was the original title over the 7.8262-hectare lot, then why was there a need to have another title, OCT No. I-3423, issued on January 11, 1936? Why was OCT No. I-3423 not indicated in the most recent TCT No. T-90872?

If Salud Aguila was the original homestead patentee, as now alleged by petitioners, why was there a need to cancel OCT No. I-2423 issued on December 18, 1935 and have TCT No. T-12368 issued on August 13, 1959,

also in her name? This is incongruous to say the least. No explanation was given. We agree with the CA that OCT No. I-2423 was cancelled when Salud Aguila acquired the subject property on August 13, 1959 or 24 years after the issuance of the OCT.

In fact, as aptly put by private respondents, petitioners never averred before the DAR and OP that Salud Aguila was the original homestead patentee of OCT No. I-2423 and that petitioner Aguila is a direct compulsory heir of the homestead patentee to whom OCT No. I-2423 was issued. Without any substantial evidence that would show that petitioner Aguila or Salud Aguila was entitled to the exemption pursuant to the homestead laws, the lot now covered by TCT No. T-90872 is indubitably under the coverage of the OLT of the government pursuant to PD 27.

Anent the 2.6234-hectare lot covered by TCT No. T-65348, the OP held that it was issued on March 1, 1973 in the name of Salud Aguila pursuant to a deed of absolute sale between Salud Aguila and petitioner Taguinod, cancelling TCT No. T-36200-A in the name of petitioner Taguinod. TCT No. T-36200-A is allegedly the derivative of OCT No. I-2965 issued on June 27, 1935 pursuant to a homestead patent. This finding of fact by the OP, while based on the records, does not support the conclusion that petitioner Taguinod is entitled to protection by the homestead laws.

Verily, the records do not show who the original homestead patentee was and whether petitioner Taguinod is a direct compulsory heir of the homestead patentee. Petitioners contend that the original patentee was one Patrocinia Alvarez, the biological mother of petitioner Taguinod. This again was not borne out by the records.

While petitioners presented a Certification^[35] issued by the Department of Environment and Natural Resources Lands Management Bureau on April 19, 1993, purportedly attesting that Lot No. 655 (lot covered by TCT No. T-65348 is a portion of Lot No. 655) was covered by Homestead Application No. 112012 and issued a patent on June 3, 1935 in the name of Patrocinia Alvarez, still, it will not afford relief to petitioner Taguinod as there were no other available records of said pre-World War II patent application. Her position is untenable for the following reasons:

First, she is not the owner on record of the subject lot covered by TCT No. T-65348, which is in the name of landowner Salud Aguila.

Second, if indeed it was mortgaged to landowner Salud Aguila through a pacto de retro contract of sale, the mortgage encumbrance was not reflected in TCT No. T-65348.

Third, no deed of such alleged mortgage was presented.

Fourth, her alleged ownership pursuant to a pacto de retro sale is belied by the evidence on record that the transfer of the subject lot to Salud Aguila was through an absolute deed of sale as borne by the certification in Tax Declaration No. 13081 under the name of Salud Aguila. The certification in Tax Declaration No. 13081 attests, thus:

Transferred by virtue of a Deed of Absolute Sale of a portion of the whole lot executed by Josephine A. Taguinod in favor of Salud A. de Aguila and ratified before Emilio R. Gombao-Notary Public as per Do. No. 18 Page No. 5, Book 8; Series of 1971.

SGD. ANTONIO L. MIRASOL

Deputy Assessor^[36]

Fifth, and more importantly, the records are bereft of any showing that petitioner Taguinod had indeed repurchased or redeemed subject property from landowner Salud Aguila. It was only the bare allegation of petitioners that subject lot had been reacquired or redeemed by petitioner Taguinod. Thus, absent any evidence to

the contrary, the 2.6234-hectare lot covered by TCT No. T-65348 is still owned by the owner of record, Salud Aguila.

Salud Aguila is the owner of the subject lots

From the foregoing reasons, it is clear that petitioners are not the owners of the subject lots. As aptly found by the Regional Director in his August 21, 1991 Order, later cited and affirmed by the DAR Secretary in his January 6, 1993 Order, thus:

Although evidently, the transfer of subject landholding by the landowner Salud Aguila to her children, petitioners herein, on January 19, 1976 is a violation of Memorandum Circular Nos. 2, 2-A and 8, Series of 1974 and therefore null and void and of no effect, ownership therefore of subject lot reverts back to the landowner Salud Aguila.[37] (Emphasis supplied.)

Although the Regional Director erroneously held that Salud Aguila was entitled to retention, the DAR Secretary corrected the judgment and affirmed the above finding which is duly supported by evidence on record.

Pursuant to PD 27, "[t]he Department of Agrarian Reform through its Secretary is x x x empowered to promulgate rules and regulations for the implementation of this Decree."

The DAR Secretary issued MC No. 2, series of 1973, dated June 18, 1973, and MC No. 2-A, dated June 19, 1973, which amended the former, with the explicit proscription and prohibition, among others, as follows:

h. Transfer of ownership after October 21, 1972, except to the actual tenant-farmer tiller. If transferred to him, the cost should be that prescribed by Presidential Decree No. 27.

Moreover, the DAR Secretary likewise issued MC No. 8, series of 1974, dated April 1, 1974, which repealed or modified MC Nos. 2 and 2-A, and other circulars or memoranda inconsistent with it, pertinently providing that: 4. No act shall be done to undermine or subvert the intent and provisions of Presidential Decrees, Letters of Instructions, Memoranda and Directives, such as the following and/or similar acts:

x x x f) Transferring ownership to tenanted rice and/or corn lands after October 21, 1972, except to the actual tenant- farmers or tillers but in strict conformity to the provisions of Presidential Decree No. 27 and the requirements of the DAR.

Based on the above provisos, it is indubitable that the transfer by Salud Aguila of the subject lot covered by TCT No. T-90872 (vice TCT No. T-12368) was clearly in violation of the above cited Memoranda. Consequently, the transfer is null and void, and the ownership reverts to Salud Aguila.

On the other hand, the acquisition by Salud Aguila, through an absolute sale of the subject lot covered by TCT No. T-36200-A for which TCT No. T-65348 was subsequently issued on March 15, 1973 in her name, was made sometime in 1971, per certification in Tax Declaration No. 13081. Consequently, landowner Salud Aguila was the owner of the subject lot covered by TCT No. T-65348 when PD 27 was issued. Clearly then, from the foregoing facts, Salud Aguila was the owner of record of the subject lot covered by TCT No. T-65348 when the OLT pursuant to PD 27 was implemented. And, as discussed above, no substantial evidence was presented except petitioner Taguinod's bare allegations that she had redeemed or repurchased the subject lot covered by TCT No. T-65348; therefore, it is Salud Aguila who owns the subject lot covered by TCT No. T-65348.

Further, even granting arguendo that the subject lot covered by TCT No. T-65348 had been repurchased or redeemed by petitioner Taguinod, such transfer is likewise null and void for being similarly violative of DAR MC Nos. 2 and 2-A, series of 1973, and MC No. 8, series of 1974.

Thus, the DAR Regional Director and DAR Secretary correctly ruled that the alleged and apparent transfers of the

subject lots to petitioners were null and void for violation of the pertinent DAR MCs in order to evade, undermine, and circumvent the intent of PD 27 and pertinent statutory and administrative issuances related to it.

Salud Aguila not entitled to retention rights over the subject lots

The next question to answer is whether landowner Salud Aguila is entitled to retention under PD 27. The DAR Regional Director held so, but this was reversed by the DAR Secretary.

The DAR Secretary took cognizance of the Certification presented by private respondents from the Municipal Assessor of Santiago, Isabela regarding Salud Aguila's ownership of a total of 13 landholdings, including the subject lots covered by TCT Nos. T-90872 and T-65348, with the corresponding copies of Tax Declarations covering said properties. This fact was never contested by petitioners, and it unquestionably shows that Salud Aguila cannot be granted retention over the subject lots pursuant to LOI No. 474 dated October 21, 1976.

LOI No. 474 mandates the DAR Secretary to "undertake to place under the Land Transfer Program of the Government pursuant to Presidential Decree No. 27, all tenanted rice/corn lands with areas of seven (7) hectares or less belonging to landowners who own other agricultural lands of more than seven (7) hectares in aggregate areas or lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families." [38] Considering her other eleven (11) landholdings and the application of LOI No. 474, we agree with the DAR Secretary and CA's holding that Salud Aguila is not entitled to retention over the subject lots.

Moreover, considering the seemingly simulated transfers made by Salud Aguila over the subject properties, we agree with the DAR Secretary and CA that these were done to circumvent the intent and application of PD 27 and the OLT of the Government. We cannot give our imprimatur to said transfers in the light of the clear intent of the law to emancipate the tenants from the bondage of the land they are cultivating, giving desirable benefits to the tenant-farmers cultivating their own land.

Premised on said grounds, the third issue on petitioners' right to retention over the subject lots is answered in the negative as they are not the owners, and consequently are not small landowners who are accorded the right of retention.

WHEREFORE, we DENY the petition for lack of merit, and AFFIRM IN TOTO the August 31, 2001 Decision in CA-G.R. SP No. 36812. Costs against petitioners.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales, and Tinga, JJ., concur.

[1] "Decreeing the Emancipation of Tenants from the Bondage of the Soil, Transferring to them the Ownership of the Land They Till and Providing the Instruments and Mechanism Therefor" (1972).

[2] Rollo, pp. 10-28.

[3] Id. at 30-50. The Decision was penned by Associate Justice Romeo J. Callejo, Sr. (Chairperson, a retired Member of this Court) and concurred in by Associate Justices Renato C. Dacudao and Perlita J. Tria Tirona of the Former Thirteenth Division.

[4] Id. at 101-107; per Executive Secretary Teofisto T. Guingona, Jr.

[5] Id. at 52.

[6] Id. at 54.

[7] Id. at 53.

[8] Supra note 3, at 31.

[9] Rollo, p. 55.

[10] Id. at 56.

[11] Id. at 59-60.

[12] Id. at 62.

[13] Id. at 63-66.

[14] Id. at 67-71.

[15] Id. at 74.

[16] Id. at 75-80.

[17] Id. at 81-86.

[18] Id. at 87-92.

[19] Id. at 92.

[20] Id. at 93-97.

[21] Id. at 96.

[22] Id. at 98-100.

[23] Supra note 4, at 107.

[24] G.R. No. 78517, February 27, 1989, 170 SCRA 709.

[25] Rollo, pp. 108-111.

[26] Id. at 112-113; per Senior Deputy Executive Secretary Leonardo A. Quisumbing (now a Member of this Court).

[27] Rollo, pp. 114-124.

[28] Supra note 3, at 50.

[29] "An Act Instituting a Comprehensive Agrarian Reform Program to Promote Social Justice and Industrialization Providing the Mechanism for its Implementation, and for Other Purposes" (1988).

[30] Rollo, pp. 154-167.

[31] Supra note 5.

[32] Supra note 2, at 16-17; original in uppercase.

[33] *Eastern Overseas Employment Center, Inc. v. Bea*, G.R. No. 143023, November 29, 2005, 476 SCRA 384, 389; *Philsa International Placement and Services Corp. v. Hon. Secretary of Labor and Employment*, G.R. No. 103144, April 4, 2001, 356 SCRA 174, 185.

[34] Supra note 24, at 709.

[35] Rollo, p. 171.

[36] Id. at 58.

[37] Id. at 95.

[38] LOI No. 474, par. 1.

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