

**DANIEL ANINAO REPRESENTED BY SPOUSE CATALINA ANINAO,
MAMERTO A. ALCARAZ, REPRESENTED BY SPOUSE HERMOGENA
ALCARAZ, TEODULFO ALCARAZ, ROMULO C. ALIPUSTAIN, FELIX
ANINAO REPRESENTE...**

G.R. No. 160420. July 28, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioners Daniel Aninao, et al., urge the reversal and setting aside of the following issuances of the Court of Appeals in CA G.R. SP No. 72201, to wit:

1)

Resolution dated December 11, 2002,[1] dismissing herein petitioners' earlier petition for review of the decision and resolution dated January 4, 2002 and July 2, 2002, respectively, of the Office of the President; and

2)

Resolution dated October 15, 2003,[2] denying petitioners' motion for reconsideration.

The relevant facts are well laid out in the adverted January 4, 2002 decision[3] of the Office of the President (OP, for short), viz.:

Subject of this case are several parcels of land with a total area of 507 hectares, more or less, which used to form part of a larger expanse consisting of 807 hectares situated in Brgys. Baha and Talibayog, Calatagan, Batangas, and formerly owned by Ceferino Ascue (Ascue).

Records show that on various dates in 1989 and 1990, emancipation patents (EPs) covering the disputed lands were issued to 323 agrarian reform beneficiaries pursuant to Operation Land Transfer (OLT) of Presidential Decree (PD) No. 27 and/or Executive Order (EO) No. 228, s. of 1987, entitled "Declaring Full Ownership to Qualified Farmer Beneficiaries Covered by [PD] No. 27."

On August 1, 1989, the Municipal Agrarian Reform Officer (MARO) of Calatagan, Batangas sent a 'Final Notification' letter dated July 28, 1989 to the heirs of Ascue relative to the payment of their land transfer claim (Records, p. 250).

On September 26, 1991, the DAR Region IV Office requested the Land Bank of the Philippines (LBP) to open a trust account in favor of Ascue in an amount corresponding to the valuation of his agricultural property. Consequently, on different dates . . . the LBP issued separate documents each certifying that an amount certain, in cash and LBP bonds, has been set aside . . .

Sometime in 1995, the heirs of Ascue, with the approval of the Regional Trial Court (RTC) at Balayan, Batangas handling the settlement his estate (sic), sold to Asturias Chemical Industries, Inc. ("Asturias") the 807 hectares of land referred to at the outset.

Years later, Asturias disturbed by what it viewed as initial activities undertaken by the DAR, . . . to place its remaining landholding under the comprehensive agrarian reform program (CARP), addressed a letter dated July 26, 1999 to the DAR Region IV office. There, Asturias made it known that its Calatagan landholding could no longer be considered for CARP coverage, it having "already been declared as mineral land pursuant to a Mineral Production Sharing Agreement ('MPSA') between the government and Asturias" (Record, pp. 163-181), and that "an Environmental Compliance Certificate (ECC) [has already been] issued ... for the establishment of a cement plant within the area" (Records, pp. 135-142).

On September 22, 1999, DAR Regional Director (RD) Renato Herrera issued, pursuant to DAR Memorandum Circular (MC) No. 34, s. of 1997, a certificate of exemption over the remaining 284.9323 hectares of land of Ascue, now owned by Asturias . The exemption order was based on the findings of the joint LVP-DAR-BARC team that "only fifteen (15) hectares, more or less, are planted with crops such as upland rice, bananas, corn and coconut while the rest, with an area of 284.9323 hectares, are undeveloped, slopes of more than 18%, rocky, swampy, and/ or mangrove areas and therefore not suitable for agricultural purposes." (p.100, Records).

On October 22, 1999, the Provincial Agrarian Reform Coordinating Committee (PARCCOM) issued Res. No. 02 urging the Registry of Deeds - Nasugbu, Batangas to cancel/consider null and void the land transaction between Ascue and Asturias if proven that it was concluded in violation of existing laws. This was followed by Res. No. 3, s. of 1999, urging agrarian reform associations to gather and submit concrete evidence on the alleged selling by agrarian reform beneficiaries (ARBs) and EP holders of their rights.

On January 6, 2000, the PARO of Batangas formed the Task Force for Baha, Calatagan, Batangas ("TF Baha"), and directed it to inter alia review related Claim Folders to ascertain if the standard operating procedures were followed in accordance with the policies and guidelines of PD 27 and CARL; to determine whether the property was planted to rice /corn as of 1972 and to verify the existence of tenancy relationship.

In a letter of January 10, 2000, Asturias formally protested the OLT coverage of portions of its Calatagan property and the threatened cancellation of its titles The grounds cited for the protest fall under these headings: (1) "The Asturias Landholding is NOT AND NEVER WAS a RICE and CORN farm"; and (2) The issuance of the alleged 818 EPs and the coverage of the Asturias property under PD # 27 is ERRONEOUS, . . . AND WITHOUT DUE PROCESS." Appended to the letter-protest were the Batangas Census of Agriculture for years 1980 and 1991 showing that only 261 hectares of the land in Calatagan are planted to rice/corn.

On February 22, 2000, TF Baha submitted its report, with these relevant findings: (1) procedural lapses attended the OLT-coverage of the property in question; (2) significant portions of the OLT-covered area were planted to sugar cane; and (3) the landowner did not recognize tenancy relations with the ARBs.

To validate the findings of TF Baha, the DAR Region IV Office created a three (3)-man teams (the "Validating Team")

Thereafter, the Validating Team, on the premise that "it cannot be established beyond reasonable doubt that the property is planted to palay or corn and tenanted", recommended that "the coverage of the property under OLT be nullified; and that the 818 EPs issued be cancelled to pave the way for the coverage [thereof] . . . under CARP."

In its order of August 4, 2000, the dispositive portion of which is quoted at the outset, the DAR, thru Undersecretary for Field Operations Conrado S. Navarro, sustained the protest of Asturias and accordingly recalled/nullified the coverage of the property in question under OLT. Undersecretary Navarro predicated his ruling on the interplay of the following premises: (a) the landholding is not primarily devoted to rice/corn production; (b) the existence of tenancy relations has not been clearly established; and (c) the property had long ceased to be agricultural: it has become mineral land.

xxx xxx xxx

Subsequently, two (2) groups, each claiming to be farmer-beneficiaries, separately moved for reconsideration. However, in a resolution of January 3, 2001, the DAR, after addressing three (3) main points raised by these groups, denied the separate motions. [Emphasis and italization in the original]

From the adverse order of the Department of Agrarian Reform (DAR) dated August 4, 2000,[4] dispositively reading -

WHEREFORE, in view of the foregoing, the protest of Asturias Chemical Industries, Inc., against the OLT coverage involving 507.87 hectares in Brgy. Baha and Talibayog, Calatagan, Batangas is hereby GRANTED. However, the cancellation of the Emancipation Patents issued therein shall be the subject of separate proceedings before the DAR Adjudication Board pursuant to the DARAB New Rules of Procedure which may only be allowed upon due consideration of the right of the farmer-beneficiaries to disturbance compensation in accordance with existing laws and regulations.

SO ORDERED,

and its Resolution of January 3, 2001,[5] herein petitioners Atanacio Aninao, et al., appealed to the OP. On January 04, 2001, OP, thru then Executive Secretary Alberto G. Romulo, rendered a decision,[6] the decretal portion of which reads, as follows:

WHEREFORE, premises considered, the appealed order of DAR dated August 4, 2000 and its subsequent resolution dated January 3, 2001 are hereby AFFIRMED. The instant appeal is accordingly DISMISSED.

Petitioners subsequently moved for reconsideration, but their motion was denied per OP resolution of July 2, 2002.[7]

In time, petitioners went to the Court of Appeals on a petition for review under Rule 43 of the 1997 Rules of Civil Procedure, whereat their recourse was docketed as CA G.R. SP NO. 72201.

In a resolution of September 5, 2002,[8] the appellate court, noting that only petitioner Agustin Lopez signed the verification and certification of non-forum shopping, gave petitioners five (5) days from receipt thereof within which to present a Special Power of Attorney (SPA) to establish that Agustin Lopez was authorized to sign on behalf of the other petitioners. The same resolution carried a caveat that failure to comply with the SPA requirement "will result in the dismissal of the petition".

On September 16, 2002 and again on September 23, 2002, petitioners' counsel filed Manifestations, appending thereto two (2) separate SPAs for petitioner Agustin Lopez, the first allegedly signed by twelve (12) of his co-petitioners, or by their representatives, and the second, bearing the purported signatures of the other petitioners or their representatives, giving Agustin Lopez authority, in coordination with their counsel, to represent them in all matters connected with the case.

Eventually, in the herein first assailed Resolution dated December 11, 2002,[9] the Court of Appeals dismissed petitioners' petition for review for "being insufficient in form for failing to comply with the requirements under Section 3, Rule 46[10] and Section 5, Rule 7 of the 1997 Rules of Civil Procedure." Petitioners then moved for reconsideration, but the appellate court denied the same in its subsequent Resolution of October 15, 2003.[11]

Petitioners are now before this Court via the instant recourse, praying that their right to the parcels of land in question be adjudicated on the merits, it being their posture that the Court of Appeals erred in dismissing their petition in CA G.R. SP No. 72201 on the ground of insufficiency or deficiency of the certification against forum shopping.

Apart from their core submission and arguments on forum shopping, petitioners tender the following

determinative issues:

- The propriety of the nullification of the coverage under OLT of PD No. 27 of the tracts of land in question and DAR's competence to effect such nullification; and
- Validity of the sale of the same property by the heirs of Ceferino Ascue in favor of respondent Asturias Chemical Industries, Inc.

On the threshold issue, petitioners fault the Court of Appeals for dismissing their petition on the stated reason that they failed to comply with the requirements under Section 3, Rule 46 in relation to Section 5, Rule 7 of the Rules of Court. Such dismissal action is, to them, erroneous, given that they have substantially complied with what the rules require.

We are not persuaded.

In putting petitioners to task for failure to hew with the rules on non-forum shopping, and dismissing their petition on account of such failing, the appellate court, in its first assailed resolution, made the following findings, to wit:

We have carefully perused the two (2) Special Powers of Attorney and found that despite the order of the Court to submit the required authority, the petitioners failed to comply with the Order. As written in the caption, there are 297 petitioners with 31 names that were repeated. If we deduct the repeated names, the number of petitioners would be reduced to 266. The Special Powers of Attorney show that only 166 petitioners signed and out of this number, there were 24 persons who signed but were not listed as petitioners. In sum, there were only 142 petitioners out of 266 petitioners who signed the Special Power of Attorney.

In the matter of petitioners' non-compliance with the procedural requirement on forum shopping, we find no reversible error in the appealed dismissal action of the appellate court. We agree with the Court of Appeals that the requirements on the filing of a certification against forum shopping should be strictly complied with. It bears stressing that a petition involving two or more petitioners must be accompanied by a certification of non-forum shopping accomplished by all petitioners, or by one who is authorized to represent them; otherwise, the petition shall be considered as defective and, under the terms of Section 3, Rule 46 of the Rules of Court, may be dismissed. This, we have stressed in a language too plain to be misunderstood in *Loquias vs. Office of the Ombudsman*:^[12]

At the outset, it is noted that . . . the Certification [against forum shopping] was signed by Antonio Din, Jr. one of the petitioners in the instant case. We agree with the Solicitor General that the petition is defective. Section 5, Rule 7 expressly provides that it is the plaintiff or principal party who shall certify under oath that he has not commenced any action involving the same issues in any court, etc. Only petitioner Din . . . signed the certification. It cannot likewise be presumed that petitioner Din knew, to the best of his knowledge, whether his co-petitioners had the same or similar actions filed or pending. We find that substantial compliance will not suffice in a matter involving strict compliance with the rules. The attestation contained in the certification on non-forum shopping requires personal knowledge by the party who executed the same. Petitioners must show reasonable cause for failure to personally sign the certification. Utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction.

It may be, as suggested in *Loquias* and other cases, that a relaxation of the rule on certification against non-forum shopping may be allowed under the principle of substantial compliance, provided petitioners present reasonable ground to warrant such liberality. With the view we take of the case, however, reasonable cause had not been adequately shown for the failure of close to one half, or about 47%, of the petitioners to either personally sign the certification against forum shopping or the special power of attorney therefor. Certainly not lost on this Court is the fact that the appellate court, before coming out with its first assailed issuance, *motu proprio* called the

petitioners' attention to the flaw of their petition and accorded them an opportunity to rectify the same or risk dismissal of their petition. Only when petitioners failed to properly heed its advisory did the Court of Appeals proceed with the dismissal of the petition, as warned. Petitioners' counsel's explanation^[13] in his motion for reconsideration that considerable distance and the rugged terrain separating barangays Baha and Talibayog accounted for the difficulty of gathering the petitioners in one place for their signature would not carry the day for them. For, the following excerpts appearing in the same motion belie counsel's allegations about great distance and topography posing as obstacles to securing the signatures of the petitioners:

xxx. Aside from the fact that Petitioner Lopez is the recognized leader of the farmers-petitioners, he and his co-petitioners live in two adjacent barangays, Baha and Talibayog, which speak of their proximity and closeness of the petitioners with each other. . . . (at p. 4)

If on the foregoing score alone, this Court could, at this point, very well write *finis* to this disposition. Nonetheless, for the peace of mind of prospective agrarian reform beneficiaries who are, in all likelihood, expecting an answer as to why they must yield to the superior right of another despite their having been issued emancipation patents (EPs), we choose to discuss and address the material issues raised in the instant petition. This approach we take in relation to our duty to formulate guiding and controlling legal principles as we have the symbolic function to educate the bench, the bar and adjudicating administrative offices.^[14]

Among the more decisive issues raised relate to the propriety of the nullification of the OLT coverage of the property in question.

It is basic that the agrarian reform program, be it under the aegis of Presidential Decree (P.D.) No. 27, otherwise known as the Tenants Emancipation Decree, or Republic Act (RA) 6657, also known as the Comprehensive Agrarian Reform Program (CARP) law, covers only agricultural lands,^[15] meaning "lands devoted to agricultural activity as defined in [RA 6657] and not classified as mineral, forest, residential, commercial or industrial land."^[16] Presidential Decree No. 27, by its terms, applies to tenant-farmers of private agricultural lands primarily devoted to rice and corn under a system of share-crop or lease-tenancy. On the other hand, the CARP law has, for its coverage, all public and private agricultural lands, regardless of tenurial arrangement and commodity produced.^[17]

As may be noted, EPs were issued to petitioners as agrarian reform beneficiaries or successors-in-interests pursuant to the OLT program under P.D. No. 27. To come within the coverage of the OLT, there must be showing that the land is devoted to rice or corn crops, and there must be a system of share-crop or lease tenancy obtaining therein when P.D. No. 27 took effect on October 21, 1972.^[18] If either requisite is absent, exclusion from the OLT coverage lies and EPs, if issued, may be recalled.^[19]

In the case at bench, it has been peremptorily determined by OP and, before it, by the DAR, acting on investigations reports of its provincial (Batangas) office, as reviewed and validated by its regional office, that the OLT coverage of the disputed landholdings was erroneous, it being established that the lands covered are not primarily devoted to rice and corn and that the tenancy relationship has not been clearly established. Absent palpable error by both agencies, of which this Court finds none, their determination as to the use of the property and/or to the dubious status of petitioners as *de jure* tenants is controlling.

xxx, it is settled that factual findings of administrative agencies are generally accorded respect and even finality by this Court, if such findings are supported by substantial evidence, a situation that obtains in this case. The factual findings of the Secretary of Agrarian Reform, who, by reason of his official position, has acquired expertise in specific matters within his jurisdiction, deserve full respect, and without justifiable reason, ought not to be altered, modified or reversed.^[20]

Upon the foregoing perspective, the nullification by the offices a quo of the coverage of the property in question under the OLT program was rightly decreed.

But the more compelling reason arguing for the propriety of the DAR's assailed nullification action is its determination that the property in question "had long ceased to be agricultural and converted to mineral land even before it was placed under OLT coverage".[21] For, lands classified as mineral are exempt from agrarian reform coverage. There is, to be sure, adequate evidence to support DAR's finding on the mineralized nature of the land. The DAR mentioned one in page 8 of its Order of August 4, 2000, referring to the study made in May 1965 of the then Bureau of Mines which reported that "ample reserves of calcitic limestone and tuffaceous shall-sandstone suitable as basic raw materials for portland cement manufacture are available in . . . more than 339 hectares . . . Baha and Talibayog, Calatagan." Not to be overlooked is the 25-year Mineral Production Sharing Agreement[22] (MPSA) entered into in July 1997 by and between respondent and the Department of Environment and Natural Resources covering 2,336.8 hectares of land situated in Baha, Talibayog, Punta and Hukay, Calatagan, Batangas, including the disputed property, for the sustainable development and utilization of limestone and other mineral deposits existing within the contract mining area. And for a third, the DENR has issued in favor of respondent an Environmental Clearance Certificate (ECC)[23] for its cement plant complex within the disputed area and authorizing it to conduct limestone and shale quarrying operations thereat.

Surely not lost on this Court is the fact that the MPSA and ECC are annotated on the six (6) titles of Asturias over the property in question.[24]

In the light of the foregoing disquisition, we find untenable petitioners' lament that DAR and OP erred in not declaring the sale of the property in question made by the heirs of Ascue to respondent as null and void under the terms of Section 6 of R. A. 6657.[25] For, what said Section 6 contextually prohibits is the sale or disposition of private agricultural lands covered by CARP. Mineral lands, meaning any area where mineral resources, or concentration of minerals/rocks with potential economic value are found,[26] as here, are, to reiterate, outside of OLT or CARP coverage. Hence, petitioners' invocation of Section 6 of R.A. 6657 is misplaced. What is more, petitioners are, at bottom, without standing to challenge the validity of the Heirs of Ascue — Asturias sale, as approved by the Regional Trial Court at Balayan, Batangas.

Finally, petitioners' challenge to the DAR's jurisdiction to nullify the OLT coverage of the lands subject hereof, especially when EPs have been issued therefor, is tenuous at best. It need not detain us long. Nullification of OLT coverage and cancellation of EPs are entirely different concepts, albeit the cancellation of an EP, if issued over a piece of land, would be the logical consequence of the nullification of the OLT coverage of such land. It cannot be over-emphasized, however, that the assailed ruling of the DAR Secretary, as sustained by OP, merely gave due course to the protest lodged by respondent against the OLT coverage of the property in question. It stopped short of ordering the recall and cancellation of the EPs thus issued over the covered property. In fact, the DAR Secretary made it abundantly clear that "the cancellation of the [EPs] . . . shall be the subject of separate proceedings before the DAR Adjudication Board". There can be no quibbling about the DAR Secretary's competence to act on protests against agrarian reform coverage and to nullify such coverage. As held by this Court in Centeno vs. Centeno[27] "the DAR . . . shall have exclusive jurisdiction over all matters involving the implementation of the agrarian reform program." Matters involving the administrative implementation of the transfer of the land, such as the giving out of notices of coverage to the tenant-farmer under P.D. No. 27 and amendatory and related decrees, rules and regulations, shall be exclusively cognizable by the Secretary of Agrarian Reform, including the issuance, recall or cancellation of EPs or CLOAs,[28] save when such certificates of land transfer have been registered with the Register of Deeds, as in this case, in which instance the recalling authority is the DAR Adjudicating Board (DARAB).[29]

As this Court held in *Padunan vs. DARAB*:^[30]

The ruling of the Court of Appeals that DARAB has jurisdiction to cancel the unregistered emancipation patents in the name of Angelina Rodriguez is hereby REVERSED. We hereby rule that it is the Secretary of the Department of Agrarian Reform who has jurisdiction to cancel the said unregistered emancipation patents. Private respondent Marcos, the new legal agrarian reform beneficiary of the subject land, should file the proper action before the DAR to cancel the said unregistered emancipation patents. (Emphasis in the original; at p. 209).

To sum up, the Court finds the case disposition of DAR, as affirmed by OP, to be in accordance with applicable law and jurisprudence.

WHEREFORE, the instant petition is DENIED for lack of merit.

No pronouncement as to costs.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Penned by Associate Justice Regalado E. Maambong with Associate Justices Delilah Vidallon-Magtolis and Andres B. Reyes, concurring; Annex "A", Petition, Rollo, pp. 53-58.

[2] Annex "B", Petition; Rollo, pp. 60-61.

[3] Annex "J", Petition; Rollo, pp. 111, et seq.

[4] Annex "H", Petition; Rollo, pp. 89-99.

[5] Annex "I" Petition; Rollo, pp. 101-109.

[6] *Supra*, See Note No. 3.

[7] Rollo, pp. 118-119.

[8] Rollo, p. 123.

[9] *Supra*, see Note # 1.

[10] "SEC. 3. Contents and filing of petition; effect of non compliance with requirements. - x x x

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereto, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom. xxx"

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

[11] *Supra*, see Note # 2.

[12] 338 SCRA 62 [2000].

[13] Stated in pp. 4 & 5 of the motion for reconsideration of the CA's appealed resolution of Dec. 11, 2002; Rollo, pp. 147-148.

[14] *Salonga vs. Cruz Pano*, 134 SCRA 438 [1985]; *Republic vs. City of Davao*, 388 SCRA 691 [2002].

[15] Sec. 4, Art. XII of the Constitution provides that "[T]he State shall, by law, undertake an agrarian reform program To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe"

[16] Sec. 3 (c), R.A. 6657.

[17] Sec. 4, RA 6657.

[18] *Daez vs. Court of Appeals*, 325 SCRA 856 [2000].

[19] *Ibid.*

[20] *Sebastian vs. Morales*, 397 SCRA 549 [2003].

[21] Page 8 of DAR Order dated August 4, 2000; Rollo, p. 96.

[22] Annex "4" of Comment to Petition; Rollo pp. 297-314.

[23] Annex "5", *Id.*, Rollo, pp. 315-322.

[24] Rollo, pp. 490-495.

[25] Sec. 6. Upon the effectivity of this Act [on June 15, 1988], any sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner in violation of the Act shall be null and void."

[26] Sec. 3 of the Phil. Mining Act of 1995 (R.A. No. 7942).

[27] 343 SCRA 153 [2000].

[28] *Nuesa vs. Court of Appeals*, 378 SCRA 351 [2002].

[29] Par. F, Sec. 1, Rule II, 1994 DARAB New Rules of Procedure.

[30] 396 SCRA 196 [2003].

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