

**LAPANDAY AGRICULTURAL & DEVELOPMENT CORPORATION
(L.S. VENTURES, INC., ALREADY MERGED WITH LAPANDAY
AGRICULTURAL AND DEVELOPMENT CORP.), PETITIONER, VS.
MAXIMO ESTITA, JUANITO AB...**

G.R. NO. 162109. January 21, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

In this verified petition for review on certiorari, petitioner Lapanday Agricultural & Development Corporation assails and seeks the annulment of the following issuances of the Court of Appeals in CA-G.R. SP No. 71230, to wit:

1. Decision dated September 3, 2003,[1] declaring as valid an earlier decision dated January 17, 2001 of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB Case No. 8117, which, in turn, affirmed with modification the resolution dated October 20, 1997 of the DAR Provincial Agrarian Reform Adjudicator of Digos, Davao del Sur in a land dispute involving the vast agricultural land of the late Orval Hughes at Malalag, Davao del Sur; and
2. Resolution dated January 19, 2004,[2] denying petitioner's motion for reconsideration.

We lift from the decision under review and reproduce hereunder the factual backdrop of the case, thus:

The instant petition involves a vast tract of an agricultural land with an area of 716 hectares located at Malalag, Davao del Sur. On July 28, 1924, this land was leased by the Government to Orval Hughes for a period of twenty-five (25) years under Lease Application No. 815 (E-172). The lease actually expired on May 25, 1952, it having been extended for three (3) years. Orval Hughes died and was survived by his five (5) heirs who then filed their Sales Application Nos. V-11538, V-12992, V-13837, V-14586 and V- 15003 with the Bureau of Lands. Teodulo Toca, et al., filed a protest against the sales application.

On August 20, 1957, the Office of the President gave due course to the applications to cover only 317 hectares at 63 hectares per heir as per OCT No. P-4712 but awarded 399 hectares to 133 protesters [led by Teodulo Toca] at three (3) hectares each. On September 17, 1981, the Ministry of Natural Resources issued an Order implementing said decision (Annex "N", Rollo, pp. 160-164). However, the 133 petitioners listed in the said Order were not in possession of the land allotted to them. So, they formed the Malalag Land Petitioners Association, Inc. (The Association) headed by one Cecilio R. Mangubat Sr. On the other hand, those in possession of the land sought the assistance of the Malalag Ventures Plantation Inc., in its development into a viable banana production project to which the corporation acceded. Meanwhile, on November 12, 1987, the Supreme Court in *Minister of Natural Resources vs. Heirs of Orval Hughes*, 155 SCRA 566, sustained the OP decision and it became final and executory. On December 12, 1991, the association, through its president Mr. Mangubat, sent a letter to the management of Lapanday Group of Companies, Inc. manifesting that they were no longer interested in the government grant under the Order of the Ministry of Natural Resources and offered to transfer and waive whatever interest they have over the subject land for a monetary consideration (Annex

“O”, Rollo, p. 165). Mr. Mangubat was the first to relinquish his right for P54,000.00 (Annex “P”, Rollo, p. 166). The individual respondents allegedly followed suit. He facilitated the relinquishment in the Office of the Commission on the Settlement of Land Problems (COSLAP) (Annex “Q”, Rollo, pp. 167-169). It therefore came as a surprise when, on January 17, 1995, the individual respondents filed [against Lapanday and/or L.S. Ventures, Inc., the Heirs of Orval Hughes, the DENR/COSLAP and Cecilio Mangubat, Sr.] the following cases: forcible entry, reinstatement, nullification of affidavits of quitclaims, relinquishment, waiver and any other documents on disposition of lands before the Provincial Agrarian Reform Adjudication Board (PARAD) of Digos, Davao, del Sur. They alleged that since 1947, they had been the share tenants-tillers, openly and continuously, of the late Orval Hughes and his heirs and they remained as such on the 317 hectares land (Annexes “A” & “B”, Rollo, pp. 40-72). They further averred that on February 11, 1991, petitioner-corporation, Hughes’ heirs and Cecilio Mangubat Sr., conspiring together, misled them to receive P54,000.00 each as rentals on their respective landholdings and deceived to sign receipts in English which turned out to be affidavits of quitclaims in favor of the petitioner (Annex “E”, PARAD Decision dated July 9, 1997, p. 3; Rollo, p. 111). Petitioner [Lapanday Agricultural & Development Corporation] opposed said actions for being factually and legally baseless, there being no entity by the name of Lapanday and L.S. Ventures Inc. which has agricultural operation in Davao del Sur. The fact is that said company had already merged with Lapanday Agricultural and Development Corporation (Annexes “C” & “M”, Rollo, pp. 73-79 & 159, respectively).

In a decision dated July 9, 1997,[3] the DAR Provincial Agrarian Reform Adjudicator of Digos, Davao del Sur, Mardonio L. Edica, rendered judgment in favor of the Malalag Ventures Plantation, Inc. and declared the entire 716-hectare property as covered by the Comprehensive Agrarian Reform Program or CARP. More specifically, the decision dispositively reads:

WHEREFORE, premises considered, a decision is hereby rendered declaring that the entire 716 hectares shall be covered by CARP. The portion planted to bananas by the Malalag Plantation Ventures shall be governed by Sections 13 and 32 of Republic Act No. 6657 in favor of Malalag Land Petitioner Association. The Operation Division of the Provincial Agrarian Reform Office shall implement this decision in accordance with existing guidelines, rules and regulations.

The heirs of Orval Hughes are hereby ordered to reinstate the Malalag Land Petitioners Association. Leasehold tenancy shall be observed collectively, pending recommendation by the PARO Operations Division, without prejudice to the outcome of the cases still pending with the administrative agencies and the regular courts.

SO ORDERED.

Upon motion for reconsideration, Provincial Agrarian Reform Adjudicator Mardonio L. Edica, in a Resolution dated October 20, 1997,[4] modified his aforequoted decision of July 9, 1997 by specifically directing “Lapanday and/or L.S. Ventures, Inc.” to turn over the area involved for CARP coverage, and ordering the Hughes heirs to reinstate the members of the Davao del Sur Farmer’s Association (DASUFRA) as leasehold tenants of the subject land. We quote the dispositive portion of the same Resolution:

“WHEREFORE, the decision of 9 July 1997 is hereby modified to read:

Declaring that the entire 716 hectares shall be covered by CARP. The portion planted to bananas by the Malalag Plantation Ventures, Inc. shall be governed by Sections 13 and 32 of Republic Act No. 6657 in favor of qualified members of the Malalag Land Petitioners’ Association (MLPA), and the remaining portion shall be allotted to all deserving and listed members of the Davao del Sur Farmer’s Association (DASUFRA). The LAPANDAY, L.S. Ventures and/or the Malalag Plantation Ventures, Inc. is hereby mandated to turn over the area involved for CARP coverage. The Operations division of the Provincial Agrarian Reform Office of Davao del Sur is likewise mandated to implement this resolution in accordance with existing guidelines, rules and regulations.

The heirs of Orval Hughes are hereby ordered to reinstate the members of the DASUFRA. Leasehold tenancy shall be observed collectively pending documentation of the area by the PARO Operations Division regardless of the outcome of the cases still pending with the administrative agencies and the regular courts.

The local National Police, Armed Forces of the Philippines or any of the component units are hereby directed to assist the DAR in the enforcement and/or implementation of this resolution xxx.

This resolution is immediately executory.

SO ORDERED”.

From the aforequoted resolution of the Provincial Agrarian Reform Adjudicator, “Lapanday and/or L.S. Ventures, Inc.”, went on appeal to the Department of Agrarian Reform Adjudication Board (DARAB), at Quezon City where the appeal was docketed as DARAB Case No. 8117.

In a decision dated January 17, 2001,[5] the DARAB, ruling that the Provincial Agrarian Reform Adjudicator had no jurisdiction to declare the entire 716-hectare landholding as covered by the CARP and that the only issue within his competence is to find out whether sufficient grounds exist to warrant respondents’ dispossession from the 317-hectare portion thereof which was earlier awarded to the heirs of Orval Hughes, modified the appealed resolution of Provincial Adjudicator Edica, thus:

WHEREFORE, premises considered, the appealed Resolution of October 20, 1997, is hereby MODIFIED to read as follows:1. Ordering respondents heirs of Orval Hughes to vacate the premises of the 133 (sic, should be 399) hectares which were long ago awarded to 133 awardees who were identified in the Order of Natural Resources Minister dated September 17, 1981, and turn over the peaceful possession thereof to the said 133 awardees or their heirs;2. Ordering respondents Lapanday and/or L.S. Ventures and Hughes’ heirs to restore petitioners Maximo Estita, et al., to their respective farmlots within the 317 hectares owned by the Hughes’ Heirs; and3. Declaring the nullity of the quitclaims allegedly executed by petitioners.The matter of placing the 317 hectares under CARP shall be pursued in the proper forum which is the Office of the Honorable DAR Secretary.This decision is immediately executory.SO ORDERED.

With their motion for reconsideration of the same decision having been denied by DARAB in its Resolution of March 15, 2002, “Lapanday and/or L.S. Ventures, Inc.”, this time under the name Lapanday Agricultural & Development Corporation (the herein petitioner), elevated the case to the Court of Appeals via a petition for review, thereat docketed as CA-G.R. SP No. 71230.

As stated at the threshold hereof, the Court of Appeals, in a Decision dated September 3, 2003,[6] denied petitioner’s recourse thereto for being merely dilatory and accordingly upheld the validity of the aforementioned DARAB decision of 17 January 2001 and resolution of 15 March 2002, as follows:

WHEREFORE, in consonance with the Supreme Court’s directive not to further delay the implementation of the August 20, 1957 Decision, the instant petition is hereby DENIED for being dilatory. The assailed Decision of the DARAB dated 17 January 2001 and Resolution dated 15 March 2002 are declared VALID.

Petitioner and its counsel are warned not to further resort to measures of this nature, otherwise, they shall be dealt with severely for having abused the processes of the courts.

The individual respondents who received the amount of P54,000.00 are ordered to return the same to the petitioner.

SO ORDERED.

In time, petitioner moved for a reconsideration, which motion was denied by the same court in the herein equally assailed Resolution dated January 19, 2004[7] for being merely pro forma.

Hence, this recourse by petitioner Lapanday Agricultural & Development Corporation on its basic submission that the Department of Agrarian Reform thru its Provincial Agrarian Reform Adjudicator, the DARAB and the Court of Appeals all erred (1) in assuming jurisdiction over an issue covering a public land; and (2) in rendering judgment against it even as it is not a real party-in-interest in the case.

The petition is bereft of merit.

Before going any further, however, we shall first address respondents' concern as to what remedy petitioner has resorted to in coming to this Court: whether by petition for review on certiorari under Rule 45 of the Rules of Court, wherein only "questions of law" may be raised, albeit jurisprudence extends this remedy even to questions of fact in exceptional cases,[8] or by the special civil action of certiorari under Rule 65, whereunder the main inquiry is whether there is grave abuse of discretion or lack of jurisdiction.

While the petition raises jurisdictional issue, it is apparent from our reading thereof that the same is a petition for review on certiorari under Rule 45. For one, the very recourse itself is captioned as a "petition for review on certiorari". For another, even as petitioner came to this Court from a final decision of the Court of Appeals, the latter is not impleaded as a nominal party-respondent in the petition thus filed, as in fact the ones impleaded as respondents in the caption thereof are only the very same original parties to the case while still in the offices a quo.

We shall then deal with the petition as one filed under Rule 45 and treat the alleged lack of jurisdiction on the part of the Department of Agrarian Reform (DAR), the DARAB and the Court of Appeals as allegation of reversible error.

Petitioner first contends that the subject landholding is still part of the public domain, hence, still under the jurisdiction of the Department of Environment and Natural Resources (DENR) and, therefore, beyond the coverage of the Comprehensive Agrarian Reform Program (CARP).

There can be no debate at all that under the Public Land Act, the management and disposition of public lands is under the primary control of the Director of Lands (now the Director of the Lands Management Bureau or LMB) subject to review by the DENR Secretary[9]

The hard reality in this case, however, is that the land in question has ceased to be public, as in fact it is already titled. As found by both the DARAB and the Court of Appeals, the 317-hectare land awarded to the Hughes Heirs is covered by Original Certificate of Title No. P-4712, the existence of which was never refuted by the petitioner. Specifically, the DARAB decision of January 17, 2001,[10] partly states:

"On August 20, 1957 the Office of the President gave due course to applications to cover only 317 hectares at 63 hectares each heir as per OCT No. P-4712 but awarding 399 hectares to 133 awardees at three (3) hectares each" (Emphasis supplied),

a finding reechoed on page 3 of the CA decision of September 3, 2003.[11]

With the above, and bearing in mind that the CARP covers, regardless of tenurial arrangement and commodity produce, all public and private agricultural lands,[12] with the DAR vested with primary jurisdiction to determine and adjudicate, through its adjudication boards, agrarian reform matters, and exclusive jurisdiction over all matters involving the implementation of the agrarian reform program,[13] we rule and so hold, contrary to petitioner's assertion, that the DAR, thru its Provincial Agrarian Reform Adjudicator at Digos, Davao del Sur correctly took cognizance of the case in the first instance.

Petitioner next argues that the DARAB decision, as affirmed by the Court of Appeals, ordering "Lapanday and/or

L.S. Ventures Inc. to restore [respondents] Maximo Estita et al. to their respective farm lots within the 317 hectares owned by the Hughes Heirs”, has no valid force and effect against petitioner because it is not a real party-in-interest, pointing out that “Lapanday and/or L.S. Ventures, Inc.,” are separate and distinct from petitioner’s corporate personality. Petitioner asserts that “Lapanday” has no juridical personality, while the corporate life of “L.S. Ventures Inc.” has ceased when said entity merged with petitioner in 1996. Moreover, petitioner points out that it has no business operations in Davao del Sur where the land in question lies.

We are not persuaded.

To begin with, it is basic in the law of procedure that misjoinder of parties is not a ground for the dismissal of an action, as parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the proceedings and on such terms as are just[14]

Then, too, there is the rule that objections to defects in parties should be made at the earliest opportunity, that is, at the moment such defect becomes apparent, by a motion to strike the names of the parties wrongly impleaded. For, objections to misjoinder cannot be raised for the first time on appeal.[15]

Here, aside from unsubstantiated denials that it is not the party referred to in the complaint for forcible entry, etc., commenced by the respondents before the office of the Provincial Agrarian Reform Adjudicator of Digos, Davao del Sur, petitioner did not even file a motion to strike its name in all the proceedings below. Quite the contrary, and as correctly found by the Court of Appeals in the decision under review, petitioner corporation -

“x x x filed an Answer (Annex “D”, Rollo, pp.91-96) thereby submitting to the jurisdiction of the Board. The same answer bears the name “LAPANDAY AND/OR L.S. VENTURES, INC.”, signed by its representative Caesar E. Barcenas and assisted by its counsel Jose V. Yap (Ibid, Rollo, p. 96). This alone negates the petitioner’s stance that there is no entity by the name of Lapanday and that L.S. Ventures, Inc. is separate and distinct from any company (see Annex “M” Rollo, p. 159 on Merger of Lapanday Agricultural & Development Corporation and L.S. Ventures, Inc.). And such admission made by the petitioner in the course of the proceedings in this case, does not require proof (Sec. 4, Rule 129 of the Revised Rules on Evidence).”

Petitioner’s filing of an Answer has thereby cured whatever jurisdictional defect it now raises. As we have said time and again, “the active participation of a party in a case pending against him before a court or a quasi judicial body, is tantamount to a recognition of that court’s or body’s jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court’s or body’s jurisdiction.”[16]

But even assuming, in gratia argumenti, that “Lapanday” does not have a juridical personality, it may nonetheless be sued under such a name considering that respondents commonly know petitioner by the name “Lapanday Group of Companies”, as shown in their alleged letter of intent to relinquish their rights over the subject land.[17] This brings to mind Section 15, Rule 3, of the 1997 Rules of Civil Procedure, which reads:

“SEC. 15. Entity without juridical personality as defendant. -When two or more persons not organized as an entity with juridical personality enter into a transaction, they may be sued under the name by which they are generally or commonly known” (Emphasis added).

Aware of the hopelessness of its cause, petitioner invariably posits that the herein respondents are not real parties-in-interest and are bereft of any legal personality to file and initiate the complaint for forcible entry, etc. before the office of the Provincial Agrarian Reform Adjudicator of Digos, Davao del Sur because they are not tenant-tillers of the land in dispute. Consequently, so petitioner argues, respondents are not entitled to be restored thereto.

Petitioner’s posture cannot hold water.

Both the DAR Provincial Agrarian Reform Adjudicator and the DARAB affirmed and confirmed the tenancy status of the respondents. We see no reason why the Court of Appeals should not rely on such a finding in upholding the respondents' right to be restored to their respective farmlots as leasehold tenants thereof.

For sure, the evidence adduced by the respondents clearly indicate that they were tenant-tillers of the 317-hectare land owned by the heirs of Orval Hughes. Indeed, documents[18] showing that the Judicial Administrator of the Intestate Estate of Orval Hughes had filed cases in court against the respondents for their failure to deliver the Estate's share in the harvests, are unmistakable proofs that a tenurial arrangement exists regarding the agricultural produce of the land.

Besides, the heirs of Orval Hughes as former landlords of the respondents, never denied the tenancy status of the latter, as in fact they did not even bother to answer respondents' complaint for forcible entry, etc., before the Office of the Provincial Agrarian Adjudicator.

In any event, it need not be stressed that the question regarding the respondents' tenancy status is factual in nature, which is not proper in a petition for review.[19] More so must this be where, as here, the Provincial Agrarian Reform Adjudicator, the DARAB and the Court of Appeals were one in upholding the tenancy status of the respondents.

Moreover, it is axiomatic that findings of administrative agencies, which have acquired expertise because their jurisdiction is confined to specific matters, are accorded not only respect but even finality by the courts[20] In *Corpuz vs. Sps. Grospe*,[21] we categorically held:

“As a rule, if the factual findings of the CA coincide with those of the DARAB – an administrative body which has acquired expertise on the matter – such findings are accorded respect and will not be disturbed on appeal”

As tenant-tillers of the 317-hectare land owned by the heirs of Orval Hughes, respondents are undeniably parties-in-interest to this controversy. As such, they have the legal personality to institute the action in the office a quo, namely, the office of the Provincial Agrarian Reform Adjudicator at Digos, Davao del Sur.

But then, there is petitioner's contention that respondents' interests over the subject land have already been waived when quitclaims to that effect were allegedly executed and signed by them.

The submission is equally puerile.

Waivers of rights and/or interests over landholdings awarded by the government are invalid for being violative of the agrarian reform laws. To quote from our decision in *Torres vs. Ventura*,[22] as reiterated in *Corpuz vs. Sps. Grospe*: [23]

“x x x As such [the farmer-beneficiaries] gained the rights to possess, cultivate and enjoy the landholding for himself. Those rights over that particular property were granted by the government to him and no other. To insure his continued possession and enjoyment of the property, he could not, under the law, make any valid form of transfer except to the government or by hereditary succession, to his successors”

WHEREFORE, the instant petition is DENIED and the assailed decision and resolution of the Court of Appeals AFFIRMED in toto.

Costs against petitioner.

SO ORDERED.

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

[1] Penned by Justice Eliezer De los Santos and concurred in by Justices Bennie Adefuin-De la Cruz and Jose Mendoza; Rollo, pp. 125-132.

[2] Rollo, p. 140.

[3] Rollo, pp. 88-95.

[4] Rollo, pp. 104-107.

[5] Rollo, pp. 111-121.

[6] Rollo, pp. 123-132.

[7] Rollo, p. 140.

[8] In *Fuentes vs. Court of Appeals*, G.R. No. 109849, February 26, 1997, 268 SCRA 703,709, We enumerated such instances as follows:

- (1) when the factual findings of the Court of Appeals and the trial court are contradictory;
- (2) when the findings are grounded entirely on speculation, surmises or conjectures;
- (3) when the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd or impossible;
- (4) when there is grave abuse of discretion in the appreciation of facts;
- (5) when the appellate court , in making its findings, goes beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;
- (6) when the judgment of the Court of Appeals is premised on a misapprehension of facts;
- (7) when the Court of Appeals fails to notice certain relevant facts which, if properly considered, will justify a different conclusion;
- (8) when the findings of fact are themselves conflicting;
- (9) when the findings of fact are conclusions without citations of the specific evidence on which they are based; and
- (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are contradicted by the evidence on record.

[9] *Heirs of Lourdes Saez Sabanpan, et al. vs. Alberto C. Comorposa, et al.*, 408 SCRA 692 [2003].

[10] Rollo, p. 113.

[11] Rollo, p. 196.

[12] Rep. Act No. 6657; *Republic vs. Court of Appeals*, 342 SCRA 194 [2000].

[13] RA 6657 otherwise known as the Comprehensive Agrarian Reform Law of 1988; also Executive Order 229 - Providing the Mechanism for the Implementation of the Agrarian Reform Program.

[14] Sec. 11, Rule 3, 1997 Rules of Civil Procedure.

[15] F. Regalado, REMEDIAL LAW Compendium, Vol. I, 1999 ed., pp. 85-86 citing *Garcia vs Chua*, [CA], 50 OG No. 2, 653.

[16] *Alcantara vs. Commission on the Settlement of Land Problems*, 361 SCRA 664, 669 [2001].

[17] Rollo, p. 77.

[18] Exhs. "A" to "G"; PARAD Decision, Rollo, p. 92.

[19] *Pascual vs. Court of Appeals*, 371 SCRA 338, 344 [2001].

[20] *Nuesa vs. Court of Appeals*, 378 SCRA 351, 363 [2002].

[21] 333 SCRA 425, 435 [2000].

[22] 187 SCRA 96,104 [1990].

[23] 333 SCRA 425, 436 [2000].

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