PETRONILA MAYLEM, PETITIONER, VS. CARMELITA ELLANO AND ANTONIA MORCIENTO, RESPONDENTS.

G.R. No. 162721. July 13, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review under Rule 45 of the Rules of Court, seeking the reversal of the Decision[1] of the Court of Appeals in CA-G.R. SP No. 70431, dated September 11, 2003, as well as the Resolution[2] dated February 23, 2004, which denied reconsideration. The assailed Decision affirmed the Decision[3] of the Department of Agrarian Reform Adjudication Board-Isabela in DARAB Case No. 7725 which, in turn, affirmed the judgment[4] of the Provincial Adjudicator in DARAB Case No. II-1239-ISA'97 -- a case for recovery of possession of a piece of private agricultural land.

Well-established are the following facts.

Since 1963, Bonifacio Abad had been tenanting a piece of private agricultural land less than a hectare in size (0.8497 hectare) and situated in San Salvador, Santiago City, Isabela[5] under a leasehold agreement he had entered into with petitioner's husband, Segundino Maylem, and the latter's parents. On January 8, 1988, or eight months before Segundino's demise,[6] the property was awarded to Abad by operation of Presidential Decree (P.D.) No. 27[7] under Emancipation Patent (EP) Nos. A-216347 and A-216348, which were issued by virtue of two certificates of land transfer both dated August 25, 1980.[8] The pieces of property were, in turn, respectively covered by Transfer Certificate of Title (TCT) Nos. 028668[9] and 028669, which were registered with the Register of Deeds of Isabela on June 14, 1988.[10] Sometime in 1990, petitioner persuaded Abad to temporarily give to her for one year the possession of the land identified by EP No. A-216347 and by the corresponding TCT No. 028668. Abad agreed, but after the lapse of the period, petitioner refused to surrender possession despite repeated demands.[11]

It appears that petitioner had instituted a certain Francico Morsiento as tenant-farmer to cultivate the subject land after Abad surrendered his possession,[12] and that as early as 1990, petitioner had been attempting to spare her landholdings from the operation of the agrarian reform laws. For one, her 1991 correspondence with the Land Bank of the Philippines shows that she and her children, as heirs of the deceased Segundino, refused to offer their land for distribution under the Operation Land Transfer of the

government.[13] It also appears that, sometime in November 1997, petitioner had filed with the Office of the Secretary of the Department of Agrarian Reform (DAR) a petition for the retention of a 21,194-sq m landholding covered by TCT No. T-42515.[14] The records show that said petition was granted on November 30, 1999.[15]

In the meantime, as petitioner refused to return possession of the property, and when it came to Abad's knowledge that the same was mortgaged to a third person,[16] Abad filed on December 5, 1997 a Complaint[17] for recovery of possession with the Provincial Adjudicator of the DAR. In it, he alleged that he had started tenanting the property since 1963, but upon the lapse of the one-year period during which he temporarily surrendered

possession thereof to petitioner, the latter refused to return possession. Abad likewise alleged that he had brought the controversy to the DAR Municipal Office, but no resolution had yet transpired in view of petitioner's protest for the exclusion of her properties from the coverage of the agrarian reform law. Instead of addressing the allegations of Abad, petitioner, for her part, intimated that the proceedings be suspended until the petition for the retention of her landholdings shall have been finally resolved.[18]

The Provincial Adjudicator, nevertheless, proceeded to dispose of the complaint and, on July 15, 1998, rendered a decision in favor of Abad. The Provincial Adjudicator upheld Abad's right of possession arising from ownership which had already been vested in him by virtue of the emancipation patents issued in his name, together with the corresponding TCTs; hence, Abad being the owner of the land, the agreement for the temporary surrender of the property was merely a futile attempt by petitioner to defeat the former's proprietary rights. The Provincial Adjudicator also noted that petitioner's petition for retention would not affect Abad's right to the property. Accordingly, petitioner was ordered to surrender the possession thereof to Abad.[19]

On appeal, the DARAB, in its January 17, 2001 Decision,[20] adopted the findings and conclusions of the Provincial Adjudicator.

Undaunted, petitioner lodged an appeal[21] with the Court of Appeals (CA), but to no avail. In its September 11, 2003 Decision, the appellate court dismissed the appeal and affirmed the decision of the DARAB. The CA ruled that when the emancipation patent was issued in the name of Abad, the latter became the absolute owner of the land in dispute; and that the subsequent registration thereof validated the transfer and created a lien on the property, of which everyone was therefore given constructive notice.[22] It pointed out that Abad retained the rights he had acquired through Presidential Decree (P.D.) No. 27 under the authority of Section 16 of Republic Act (R.A.) No. 6657.[23] It concluded that Abad, as owner, would not be affected by the petition for retention. Neither must he be deemed as having abandoned or surrendered the property, especially considering that he was merely induced by petitioner to temporarily relinquish possession with the assurance that it would be restored to him after a year.[24] Finally, as to petitioner's contention that Abad's complaint had already been barred by the three-year prescriptive period provided in the law, the appellate court took exception therefrom on the basis of the social justice policy of resolving doubts in favor of the disadvantaged farmer.[25]

With the denial of her motion for reconsideration,[26] petitioner brought to this Court the present recourse.

In this petition for review, petitioner advances the notion that while indeed EP No. A-216347 had been issued in Abad's name, the same was nevertheless recalled or cancelled when her petition for retention was granted by the DAR. Hence, she believes that the said land may be validly surrendered to her, especially in view of the waiver made by Abad of his rights thereto allegedly for a total consideration of P57,000.00. Raising once again the issue of prescription, she laments that it is patent from Abad's complaint that the action had already prescribed when the complaint was filed in 1997 and, hence, was dismissible on that ground.

For their part, respondents[27] counter that there is no evidence showing that EP No. A-216347 was recalled or cancelled by the DAR and, thus, Abad cannot be deemed to have abandoned the landholding in favor of petitioner in a way that would sever the tenancy relationship, especially considering that Abad merely surrendered possession of the land temporarily upon petitioner's promise to return the same to him after one year. Anent the issue of prescription, respondents aver that it must be deemed to have been waived for failure of petitioner to timely raise the same before the DARAB.

The petition is unmeritorious.

Prefatorily, it is needless to state that in appeals in agrarian cases, long-standing is the rule that when the appellate

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court has confirmed that the findings of fact of the agrarian courts are borne out by the records, such findings are conclusive and binding on this Court.[28] In other words, issues of fact that have already been decided by the DARAB and affirmed by the Court of Appeals, when supported by substantial evidence, will not be interfered with by this Court or be reviewed anew, except only upon a showing that there was fraud, collusion, arbitrariness, illegality, imposition or mistake on the part of the department head or a total lack of substantial evidence to support the decision.[29] None of these circumstances which would otherwise require an independent factual evaluation of the issues raised in the present petition, obtains in this case. On the contrary, we find that the decision of the DARAB, as affirmed by the Court of Appeals, is substantially supported by the evidence on record.

Central to the resolution of this petition is the undeniable fact that Abad had previously been granted Emancipation Patent No. A-21347 covering the land in question, which, in turn, constituted the basis for the issuance in his name of TCT No. T-028668. On this score, we agree with the ruling of both the DARAB and the Court of Appeals that by reason of such grant, Abad became the absolute owner in fee simple of the subject agricultural land.

Land transfer under P.D. No. 27 is effected in two stages: (1) the issuance of a certificate of land transfer to a farmer-beneficiary as soon as the DAR transfers the landholding to him in recognition of his being deemed an owner; and (2) the issuance of an emancipation patent as proof of full ownership of the landholding upon full payment of the annual amortizations or lease rentals by the farmer-beneficiary.[30] No principle in agrarian reform law is indeed more settled than that the issuance of an emancipation patent entitles the farmer-beneficiary to the vested right of absolute ownership of the landholding, and it constitutes conclusive authority for the issuance of an original or transfer certificate of title in his name. It presupposes that the grantee or beneficiary has, following the issuance of a certificate of land transfer, already complied with all the preconditions required under P.D. No. 27,[31] and that the landowner has been fully compensated for his property.[32] And upon the issuance of title, the grantee becomes the owner of the landholding and he thereby ceases to be a mere tenant or lessee.[33] His right of ownership, once vested, becomes fixed and established and is no longer open to doubt or controversy.[34] Inescapably, Abad became the owner of the subject property upon the issuance of the emancipation patents and, as such, enjoys the right to possess the same--a right that is an attribute of absolute ownership.[35]

Concededly, petitioner has not, at any time since the start of the controversy, contested the fact that since the issuance of EP No. A-216347 in favor of Abad, the same has subsisted and remained valid. She, nevertheless, claims that Abad, in effect, abandoned the subject land in her favor when he agreed in 1990 to surrender possession thereof to her, allegedly for a monetary consideration. We are not convinced.

Abandonment or neglect, as a ground for the cancellation of an emancipation patent or certificate of land award, according to Castellano v. Spouses Francisco,[36] requires a clear and absolute intention to renounce a right or a claim, or to abandon a right or property coupled with an external act by which that intention is expressed or carried into effect. Intention to abandon, as held in Corpuz v. Grospe,[37] implies a departure, with the avowed intent of never returning, resuming or claiming the right and the interest that have been abandoned. It consists in any one of these conditions: (a) failure to cultivate the lot due to reasons other than the non-suitability of the land to agricultural purposes, for at least two (2) calendar years, and to pay the amortizations for the same period; (b) permanent transfer of residence by the beneficiary and his family, which has rendered him incapable of cultivating the lot; or (c) relinquishment of possession of the lot for at least two (2) calendar years and failure to pay the amortization for the same period.[38] None of the instances cited above obtains in this case.

As found by the Court of Appeals, it is thus implausible that the surrender of the land by Abad could be

interpreted as abandonment in contemplation of the law, in view of the understanding between him and petitioner that the surrender of possession would be merely temporary. Suffice it to say that the allegation of abandonment is negated by the undisputed fact that Abad actually demanded the return of the property to him after the lapse of the one-year period. Indeed, petitioner's act of dispossessing Abad of the land awarded to him was merely calculated to impair the latter's vested right of ownership.[39]

More importantly, as holder of an emancipation patent, Abad is bound by the proscription against transfers of land awards to third persons, which is prohibited by law. Paragraph 13 of P.D. No. 27 materially states:

> Title to land acquired pursuant to this Decree or the Land Reform Program of the Government shall not be transferable except by hereditary succession or to the Government in accordance with the provisions of this Decree, the Code of Agrarian Reform and other existing laws and regulations.

This prohibition has been carried over to Section 27 of R.A. No. 6657, which provides:

> Section 27. Transferability of Awarded Lands. - Lands acquired by beneficiaries under this Act may not be sold, transferred or conveyed except through hereditary succession, or to the government, or to the LBP (Land Bank of the Philippines), or to other qualified beneficiaries for a period of ten (10) years: Provided, however, That the children or the spouse of the transferor, shall have a right to repurchase the land from the Government or LBP within a period of two (2) years. x x x

Hence, even if we must assume that Abad for a consideration had waived his rights to the property when he surrendered possession thereof to petitioner, such waiver is nevertheless ineffective and void, because it amounts to a prohibited transfer of the land award. As the Court held in Lapanday Agricultural & Development Corp. v. Estita,[40] the waiver of rights and interests over landholdings awarded by the government is invalid for being violative of agrarian reform laws.[41] And in Torres v. Ventura,[42] the Court declared that the object of agrarian reform is to vest in the farmer-beneficiary, to the exclusion of others, the rights to possess, cultivate and enjoy the landholding for himself; hence, to insure his continued possession and enjoyment thereof, he is prohibited by law to make any form of transfer except only to the government or by hereditary succession.[43]

Moreover, it bears stressing that petitioner has not shown that she had actually taken positive measures to cause the cancellation of EP No. A-216347 or, at least, the certificate of land transfer previously issued to Abad. Nowhere in the records does it appear that a direct action seeking the cancellation of Abad's emancipation patent or certificate of land transfer has ever been formally filed with the DAR office. A charge of abandonment or neglect of land awards under the agrarian reform program necessarily requires factual determination and evaluation by the DARAB, in which is vested the exclusive and original jurisdiction over the cancellation of emancipation patents and certificates of land award.[44] In other words, the cancellation of an emancipation patent does not ipso facto arise from the mere fact that the grantee has abandoned or neglected to cultivate the land; such fact must be so declared and the consequent cancellation must be so ordered by competent authority.[45]

There is likewise no merit in petitioner's averment that the November 30, 1998 Order[46] of the DAR, which granted her petition for retention, had the effect of canceling EP No. A-216347. To begin with, in her petition for retention, it must be noted that there was no allegation that part of the land sought to be retained included the property previously awarded to Abad, or that, at least, petitioner was seeking to place under her retention rights properties that had already been transferred to farmer-beneficiaries including those awarded to Abad. What is clear from the said petition is that petitioner was seeking to spare from being further placed under the Operation Land Transfer her remaining 2.9194-hectare landholding covered by TCT No.T-42515[47]--a title that is different from any of the two TCTs that were issued in favor of Abad by virtue of his emancipation patents.

More importantly, a perusal of the DAR Order reveals that nothing therein specifically cancelled or, at least, ordered the cancellation of Abad's EP No. A-216347.[48] Hence, we fail to be swayed even by petitioner's reliance on a stipulation in a compromise agreement she allegedly entered into with Abad, whereby they admitted that the DAR Order directed among others the cancellation of existing emancipation patents included in the landholding subject of the petition for retention.[49] Clearly, these arguments are merely petitioner's last-ditch attempt to defeat Abad's right of ownership over the subject property, which had been vested in him as early as January 8, 1988 when he was awarded the emancipation patents.

Anent the issue of prescription, we find the ruling in Omadle v. Casuno[50] to be instructive. That case, likewise, involved a complaint for recovery of possession filed with the DARAB by farmers who had already been issued emancipation patents. The complaint, however, was filed a year after the three-year prescriptive period had lapsed, but the Court--noting that the complainants therein had already acquired ownership over the property upon the issuance of the emancipation patents in their names and, hence, had severed their tenancy relationship with the landowner--held that the prescriptive period under the agrarian reform law did not apply to them. The Court said:

> As to petitioners' claim that respondents' (complainants') cause of action had prescribed, let it be stressed that since respondents (complainants) have been issued Emancipation Patent No. A-042463 and TCT No. ET-5184 as early as December 18, 1987, they can no longer be considered tenants or lessees, but owners of the subject landholding. Obviously, Section 38 of R.A. No. 3844 on prescription finds no application to their case.[51]

As a final note, it is useful to reiterate the appellate court's conclusion that the registration of Abad's emancipation patents with the Register of Deeds in accordance with law had indeed put petitioner on notice of the fact that Abad had already acquired a vested right of ownership of the landholding under the agrarian reform law. This notwithstanding, inasmuch as registration is nothing more than a mere species of notice, we need not further expound on this subject, since it is overwhelmingly shown by the records and by petitioner's own admissions that she had actual knowledge of the fact that Abad became the absolute owner of the land in question merely upon the issuance in his favor of EP Nos. A-216347 and A-216348. Hence, he and his heirs may no longer be dispossessed of their rights of possession and ownership.

WHEREFORE, the petition is DENIED. The assailed Decision of the Court of Appeals in CA-G.R. SP No. 70431, dated September 11, 2003, and its Resolution dated February 23, 2004, are AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Nachura, JJ., concur.

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[1] Penned by Associate Justice Conrado M. Vasquez, Jr. (now Presiding Justice of the Court of Appeals), with Associate Justices Bienvenido L. Reyes and Arsenio J. Magpale, concurring, rollo, pp. 22-29.

[2] Id. at 30.

[3] Id. at 43.

[4] Id.

[5] Id. at 71; CA rollo, p. 126.

[6] Segundino Maylem allegedly died on September 30, 1988; records, p. 35.

[7] 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.

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[8] Certificate of Land Transfer Nos. 0-69324 and 0-69323; records, pp. 3-4.

[9] Covering 3,959 sq m (0.3959 hectares); id. at 4.

[10] Covering 4,538 sq m (0.4538 hectares); id. at 3.

[11] Records, pp. 70-71; CA rollo, pp. 126-127.

[12] CA rollo, p. 54.

[13] See the March 8, 1991 letter to the Land Bank of the Philippines (LBP), CA rollo, p. 35. See also the correspondence between LBP and the Department of Agrarian Reform regarding petitioner's letter, CA rollo, pp. 36-38.

[14] CA rollo, p. 32.

[15] See DAR Order dated November 30, 1999 in Adm. Case No. A-0204-0080-98; CA rollo, pp. 57-60.

[16] Records, pp. 70-71; CA rollo, pp. 126-127.

[17] Records, pp. 1-2.

[18] Id. at 33-34.

[19] CA rollo, p. 39. The dispositive portion of the decision reads:

> Accordingly, judgment is hereby rendered:
>
> - Finding plaintiff to be now the owner of the land in suit by virtue of the Emancipation Patent issued in his favor;
>
> - Ordering defendant to surrender possession and cultivation thereof to the plaintiff; and
>
> - Ordering defendant to pay actual damages of P126,000.00 and litigation expenses of P10,000.00.
>
> SO ORDERED.

[20] CA rollo, pp. 45-48. The DARAB, however, deleted the Provincial Adjudicator's award of actual damages and litigation expenses. It disposed of the appeal as follows:

> WHEREFORE, premises considered, the questioned Decision dated July 15, 1998 is MODIFIED deleting the awards of actual damages and litigation expenses and the rest is AFFIRMED.
>
> SO ORDERED.

[21] Via a petition for review under Rule 43 of the Rules of Court; CA rollo, pp. 9-18.

[22] CA rollo, p. 130.

[23] The Comprehensive Agrarian Reform Law, effective June 15, 1988.

[24] Quoting from the decision of the DARAB; CA rollo, pp. 131-132.

[25] CA rollo, p. 132.

[26] Id. at 151.

[27] Respondents are the heirs of Bonifacio Abad who substituted the latter upon his death.

[28] Perez-Rosario v. Court of Appeals, G.R. No. 140796, 494 SCRA 66, 89, citing Planters Development Bank

v. Garcia, 477 SCRA 185 (2005); Milestone Realty and Co., Inc. v. Court of Appeals, 431 Phil. 119, 130 (2002).

[29] Dela Cruz v. Abille, 405 Phil 357, 369 (2001), citing Pearson, et al. v. Intermediate Appellate Court, 295 SCRA 27, 48 (1998).

[30] Del Castillo v. Orciga, G.R. No. 153850, August 31, 2006, 500 SCRA 498, 506.

[31] See Omadle v. Casuno, G.R. No. 143362, June 27, 2006, 493 SCRA 108, 113; Pagtalunan v. Tamayo, G.R. No. 54281, March 9, 1990, 183 SCRA 252, 259.

[32] See Coruña v. Cinamin, G.R. No. 154286, February 28, 2006, 483 SCRA 507, 522.

[33] See Omadle v. Casuno, supra note 31, at 112.

[34] Pagtalunan v. Tamayo, supra note 31, at 259.

[35] De Leon, Comments and Cases on Property, 3[rd] ed., 1998, p. 83.

[36] G.R. No. 155640, May 7, 2008, 554 SCRA 63.

[37] 388 Phil. 1100 (2000).

[38] Rules Governing the Correction and Cancellation of Registered/Unregistered Emancipation Patents (EPs), and Certificate of Land Ownership Award (CLOAs) Due to Unlawful Acts and Omissions or Breach of Obligations of Agrarian Reform Beneficiaries (ARBs) and for other causes.

[39] CA rollo, pp. 47, 130.

[40] G.R. No. 162109, January 21, 2005, 449 SCRA 240.

[41] Id. at 255.

[42] G.R. No. 86044, July 2, 1990, 187 SCRA 96.

[43] Id. at 104.

[44] See R.A. No. 6657, Sec. 50 and DARAB Rules of Procedure (May 30, 1994), Rule II, Sec. 1(f).

[45] See Rovillos v. Court of Appeals, G.R. No. 113605, November 27, 1998, 299 SCRA 400.

[46] CA rollo, pp. 57-60.

[47] Id. at 57, 59.

[48] The dispositive portion of the November 30, 1998 Order reads:

> WHEREFORE, foregoing considered, ORDER is hereby issued:
>
> - Granting the herein petitioners right to retain the 2.9194 hectares, more or less, being applied [for] in the instant petition;
>
> - Directing the MARO concerned to initiate the execution of leasehold contracts by and between the herein petitioners and the tenant-beneficiaries affected;
>
> - The rights of the tenant-beneficiaries to security of tenure shall be respected by the herein petitioner; and
>
> - Directing the conduct of a final survey of the retained area.
>
> SO ORDERED. (Id. at 59-60.)

[49] Rollo, p. 70. See Compromise Agreement, CA rollo, p. 111. The Compromise Agreement was attached to respondents' memorandum to the Court of Appeals.

[50] Omadle v. Casuno, supra note 31.

[51] Id. at 112.

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