HEIRS OF FLORENCIO ADOLFO, PETITIONERS, VS. VICTORIA P. CABRAL, GREGORIA ADOLFO AND GREGORIO LAZARO, RESPONDENTS.

G.R. NO. 164934. August 14, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review are the Resolutions,[1] dated May 18, 2004[2] and August 17, 2004[3] of the Court of Appeals in CA-G.R. SP No. 83438, affirming the Order[4] dated November 20, 2003 of the Provincial Agrarian Reform Adjudicator (PARAD) of Malolos City in DCN R-03-02-0242'03. The PARAD had denied petitioners' motion to dismiss and upheld the jurisdiction of the Department of Agrarian Reform Adjudication Board (DARAB) to hear and decide the petition for the cancellation of emancipation patents and torrens titles.

The present controversy involves two parcels of land consisting of 29,759 square meters and 957 square meters, respectively, situated in Barangay Iba (now Pantok), Meycauayan, Bulacan.

Petitioners are the heirs of the late Florencio Adolfo, Sr. They alleged that the parcels were included in the Operation Land Transfer program under Presidential Decree (P.D.) No. 27.[5] Thus, their father applied with the Ministry of Agrarian Reform (now Department of Agrarian Reform) for the purchase of these parcels. On April 25, 1988, he was issued Emancipation Patents (EPs) Nos. A-117858 and A-117859-H, which became the basis for the issuance of Transfer Certificates of Titles (TCTs) Nos. EP-003(M) and EP-004(M) on October 24, 1989.[6]

Petitioners added that in 1999, they applied with the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 15, for the issuance of new owner's duplicate copies of TCT Nos. EP-003(M) and EP-004(M) after the same were lost. The trial court granted their petition and ordered the Register of Deeds of Meycauayan, Bulacan, to issue new owner's duplicate copies of the certificates of titles.[7]

On their part, respondent Victoria P. Cabral alleged that she is the lawful and registered owner of the lands covered by petitioners' emancipation patents and certificates of titles as evidenced by Original Certificate of Title (OCT) No. 0-1670 [now OCT No. 0-220(M)] of the Registry of Deeds of Meycauayan, Bulacan, issued on January 6, 1960.[8] She also averred that petitioners' emancipation patents should be cancelled since (1) these covered non- agricultural lands outside the coverage of P.D. No. 27; (2) these were issued without due notice and hearing; and (3) no Certificates of Land Transfer (CLTs) were previously issued.

On August 26, 2003,[9] respondent Cabral filed with the DARAB, Region III, Branch II, Malolos City, Bulacan, a petition for the cancellation of petitioners' emancipation patents and torrens titles and the revival of OCT No. 0-1670 [now OCT No. 0-220(M)]. Petitioners moved to dismiss the petition due to (1) lack of jurisdiction, (2) lack of legal personality to sue, and (3) prescription.

On November 20, 2003, the PARAD denied the motion and upheld the DARAB's jurisdiction to determine and adjudicate cases involving the issuance, correction and cancellation of emancipation patents.[10] Petitioners

moved for reconsideration but it was denied.

Petitioners then filed a petition for certiorari and prohibition with the Court of Appeals. On May 18, 2004, the appellate court dismissed the petition due to petitioners' failure to exhaust administrative remedies since the orders of the PARAD should have been elevated for review to the DARAB. The appellate court also ruled that petitioners erred in availing of certiorari and prohibition under Rule 65 of the Rules of Court instead of a petition for review under Rule 43. The Court of Appeals ruled, thus:

> WHEREFORE, this petition for certiorari and prohibition, with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, must be as it [is] hereby DENIED DUE COURSE, and consequently DISMISSED.
>
> SO ORDERED.[11]

Meanwhile, the PARAD rendered a Decision[12] on June 18, 2004, canceling petitioners' emancipation patents and ordering the Registry of Deeds of Meycauayan, Bulacan, to revive respondent Cabral's OCT No. 0-1670 [now OCT No. 0-220(M)]. That decision is on appeal with the DARAB.

In the instant petition, petitioners raise the following issues:

> **I.**
>
> [WHETHER] THE COURT [A QUO] COMMITTED A SERIOUS MISTAKE OR ERROR IN [RULING] THAT IN CASE OF DENIAL OF A MOTION TO DISMISS BASED ON "LACK OF JURISDICTION", THE PROPER REMEDY IS RULE 43 AND NOT RULE 65 OF THE 1997 RULES OF CIVIL PROCEDURE[.]
>
> II.
> [WHETHER] THE COURT A QUO FAILED TO DETERMINE THE ISSUE [ON] THE "LACK OF JURISDICTION" OF [THE] DARAB, TO HEAR, TRY AND DECIDE CASES INVOLVING CANCELLATION OF TORRENS TITLE DULY ISSUED BY THE REGISTER OF DEEDS FOLLOWING P.D. 1529 [SINCE] THE SAME IS WITHIN [THE] EXCLUSIVE JURISDICTION OF THE REGIONAL TRIAL COURTS.[13]

Simply stated, the issues are: (1) Is Rule 65 the proper remedy in this case where the motion to dismiss on the ground of lack of jurisdiction is denied? and (2) Does the DARAB have jurisdiction to hear and decide cases for the cancellation of emancipation patents and certificates of titles?

Petitioners contend that where a party assails the jurisdiction of the lower tribunal, the proper remedy is Rule 65 and not Rule 43 of the Rules of Court. They also argue that an action for cancellation of a certificate of title falls within the exclusive jurisdiction of the RTC pursuant to Section 19 of Batas Pambansa Blg. 129.[14] They also contend that the jurisdiction of the DARAB is limited to agrarian disputes and agrarian reform under Section 50 of Republic Act No. 6657.[15] They cite the case of Llonillo v. Cruz,[16] where the Court of Appeals ruled that the DARAB has no jurisdiction to cancel a certificate of title duly issued in accordance with P.D. No. 1529.[17]

Respondent Cabral counters that an order denying a motion to dismiss cannot be the subject of a petition for certiorari under Rule 65. The proper remedy is to file an answer to the petition, proceed to trial, and await judgment before making an appeal to the DARAB which has the exclusive appellate jurisdiction to review the orders of the adjudicators. She also contends that the cancellation of emancipation patents is an agrarian matter over which the DARAB has jurisdiction.

After a thorough consideration of the contentions of the parties, we hold that the petition lacks merit.

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An order denying a motion to dismiss is an interlocutory order which neither terminates nor finally disposes of a case, as it leaves something to be done by the court before the case is finally decided on the merits.[18] Thus, the general rule is that the denial of a motion to dismiss cannot be questioned in a special civil action for certiorari which is not intended to correct every controversial interlocutory ruling.[19] It is a remedy designed to correct errors of jurisdiction and not errors of judgment.[20] Neither can a denial of a motion to dismiss be the subject of an appeal unless and until a final judgment or order is rendered. In order to justify the grant of the extraordinary remedy of certiorari, the denial of the motion to dismiss must have been tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.[21]

The petition for certiorari and prohibition filed by petitioners with the Court of Appeals was not the proper remedy to assail the PARAD's denial of their motion to dismiss. The denial was merely an interlocutory order. Even assuming that certiorari was the proper remedy, the PARAD did not commit grave abuse of discretion in denying petitioners' motion. It is a well settled rule that after the trial court denies a motion to dismiss the complaint, the defendant should file an answer, proceed to trial and await judgment before interposing an appeal.[22]

On the issue of jurisdiction, basic is the rule that it is conferred by law and determined by the material averments in the complaint as well as the character of the relief sought.[23] Defenses resorted to in the answer or motion to dismiss are disregarded, otherwise the question of jurisdiction would depend entirely upon the whim of the defendant.[24]

Specific and general provisions of Rep. Act No. 6657 and its implementing rules and procedure address the issue of jurisdiction. Section 50 of Rep. Act No. 6657 confers on the Department of Agrarian Reform (DAR) quasi-judicial powers to adjudicate agrarian reform matters. In the process of reorganizing the DAR, Executive Order No. 129-A[25] created the DARAB to assume the powers and functions with respect to the adjudication of agrarian reform matters.[26]

> SECTION 1, Rule II of the DARAB 2003 Rules of Procedure[27] enumerates the cases falling within its primary and exclusive original jurisdiction, as follows:
>
> SECTION 1. Primary and Exclusive Original Jurisdiction. The Adjudicator shall have primary and exclusive original jurisdiction to determine and adjudicate the following cases:
>
> 1.1 The rights and obligations of persons, whether natural or juridical, engaged in the management, cultivation, and use of all agricultural lands covered by Republic Act (RA) No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL), and other related agrarian laws;
>
> x x x x
>
> 1.6 Those involving the correction, partition, cancellation, secondary and subsequent issuances of Certificates of Land Ownership Award (CLOAs) and Emancipation Patents (EPs) which are registered with the Land Registration Authority;
>
> x x x x
>
> 1.12 Those cases previously falling under the original and exclusive jurisdiction of the defunct Court of Agrarian Relations under Section 12 of PD No. 946 except those cases falling under the proper courts or other quasi-judicial bodies;
>
> 1.13 Such other agrarian cases, disputes, matters or concerns referred to it by the Secretary of the DAR. (Emphasis supplied.)

Subparagraph 1.6 provides that the DARAB has jurisdiction over cases involving the correction, partition, cancellation, secondary and subsequent issuances of Certificates of Land Ownership Award (CLOAs) and Emancipation Patents (EPs) which are registered with the Land Registration Authority (the Registry of Deeds).[28] Incidentally, under DAR Memorandum Order No. 02,[29] one of the grounds for the cancellation of registered EPs is that the land is exempt or excluded from P.D. No. 27.[30]

In respondent Cabral's petition before the DARAB, she sought the cancellation of petitioners' emancipation patents and torrens titles. She impugned the legality of the emancipation patents since (1) these covered non-agricultural lands outside the coverage of P.D. No. 27, (2) these were issued without due notice and hearing, and (3) no CLTs were previously issued. Based on these material averments, it is crystal-clear that the action was one for cancellation of emancipation patents on the ground of exemption or exclusion from the coverage of P.D. No. 27. Indisputably, jurisdiction is properly vested with the DARAB. Therefore, we find that there is neither persuasive justification nor compelling reason to reverse the decision reached by the Court of Appeals.

WHEREFORE, the instant petition is DENIED for lack of merit. The Resolutions dated May 18, 2004 and August 17, 2004 of the Court of Appeals in CA-G.R. SP No. 83438, affirming the Order dated November 20, 2003 of the PARAD of Malolos City in DCN R-03-02-0242'03, are AFFIRMED.

Costs against petitioners.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

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[1] Penned by Associate Justice Renato C. Dacudao, with then Presiding Justice Cancio C. Garcia (now a member of this Court) and Associate Justice Regalado E. Maambong concurring.

[2] Rollo, pp. 37-38.

[3] Id. at 40.

[4] Records, pp. 323-329.

[5] 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, approved on October 21, 1972.

[6] Records, pp. 127-132.

[7] Id. at 301-302.

[8] Id. at 133-139.

[9] Id. at 64-76.

[10] Id. at 323-329.

[11] Rollo, pp. 37-38.

[12] Records, pp. 482-489.

[13] Rollo, p. 15.

[14] The Judiciary Reorganization Act of 1980 (B.P. Blg. 129, as amended), approved on August 14, 1981.

SEC. 19. Jurisdiction in Civil Cases. - Regional Trial Courts shall exercise exclusive original jurisdiction:
x x x x
(7) In all civil actions and special proceedings falling within the exclusive original jurisdiction of a Juvenile and Domestic Relations Court and of the Court of Agrarian Relations as now provided by law; and
x x x x

[15] Comprehensive Agrarian Reform Law of 1988, approved on June 10, 1988.

SEC. 50. Quasi-Judicial Powers of the DAR. - The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).
x x x x

[16] CA-G.R. SP No. 39821; records, pp. 159-166.

[17] Amending and Codifying the Laws Relative to Registration of Property and for Other Purposes, otherwise known as the Property Registration Decree, approved on June 11, 1978.

[18] Lu Ym v. Nabua, G.R. No. 161309, February 23, 2005, 452 SCRA 298, 305-306; See Bonifacio Construction Management Corporation v. Perlas-Bernabe, G.R. No. 148174, June 30, 2005, 462 SCRA 392, 396.

[19] Indiana Aerospace University v. Commission on Higher Education, G.R. No. 139371, April 4, 2001, 356 SCRA 367, 384.

[20] Lu Ym v. Nabua, supra at 306.

[21] Id.

[22] Bonifacio Construction Management Corporation v. Perlas-Bernabe, supra at 398.

[23] Department of Agrarian Reform v. Cuenca, G.R. No. 154112, September 23, 2004, 439 SCRA 15, 22; See Lacson Hermanas, Inc. v. Heirs of Cenon Ignacio, G.R. No. 165973, June 29, 2005, 462 SCRA 290, 295; Esteban v. Sandiganbayan, G.R. Nos. 146646-49, March 11, 2005, 453 SCRA 236, 243; Umpoc v. Mercado, G.R. No. 158166, January 21, 2005, 449 SCRA 220, 232.

[24] Department of Agrarian Reform v. Cuenca, supra at 22-23.

[25] Modifying Executive Order No. 129 Reorganizing and Strengthening the Department of Agrarian Reform and For Other Purposes, approved on July 26, 1987.

Section 13. Agrarian Reform Adjudication Board. - There is hereby created an Agrarian Reform Adjudication Board under the Office of the Secretary...The Board shall assume the powers and functions with respect to the adjudication of agrarian reform cases under Executive Order No. 229 and this Executive Order. These powers and functions may be delegated to the regional offices of the Department in accordance with rules and regulations to be promulgated by the Board.

[26] David v. Rivera, G.R. Nos. 139913 & 140159, January 16, 2004, 420 SCRA 90, 98; See Social Security System v. Department of Agrarian Reform, G.R. No. 139254, March 18, 2005, 453 SCRA 659, 665; Padunan v. Department of Agrarian Reform Adjudication Board, G.R. No. 132163, January 28, 2003, 396 SCRA 196, 204-205.

[27] Approved on January 17, 2003.

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[28] See Aninao v. Asturias Chemical Industries, Inc., G.R. No. 160420, July 28, 2005, 464 SCRA 526, 542-543.

[29] Also known as "Rules Governing the Correction and Cancellation of Registered/Unregistered Emancipation Patents (EPs), and Certificates of Land Ownership Award (CLOAs) Due to Unlawful Acts and Omissions or Breach of Obligations of Agrarian Reform Beneficiaries (ARBs) and for Other Causes" (1994), cited in Padunan v. Department of Agrarian Reform Adjudication Board, supra at 205.

[30] Padunan v. Department of Agrarian Reform Adjudication Board, supra at 205-206.

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