

AGAPITO ROM, PASTORA P. ROSEL, VALENTINO R. ANILA, JUANITO P. ROSEL, VIRGILIO R. CASAL, LUIS H. BAUTISTA, CRESENCIANO M. ARGENTE, ANA M. ARGENTE, GIL B. CUENO, ENGRACIO B. BELTR...

G.R. No. 169331. September 05, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Justifying their resort to a petition for certiorari before the appellate court and insisting that the Department of Agrarian Reform (DAR) Orders they assailed therein were issued without jurisdiction, petitioners are now before this Court for recourse.

This Petition for Review on Certiorari assails the Decision[1] dated April 29, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 82709 dismissing the Petition for Certiorari which assailed the DAR Orders[2] dated November 6, 2002 and December 12, 2003 in ADM Case No. A-9999-014-98. Said DAR November 6, 2002 Order granted respondent Roxas & Company, Inc.'s Application for Exemption from the Comprehensive Agrarian Reform Program's (CARP) coverage while the December 12, 2003 Order denied petitioners' Motion for Reconsideration thereto. Likewise assailed herein is the CA Resolution[3] dated August 11, 2005 denying the Motion for Reconsideration of its April 29, 2005 Decision.

Factual Antecedents

On September 30, 1997, respondent sought the exemption of 27 parcels of land located in Barangay Aga, Nasugbu, Batangas, having an aggregate area of 21.1236 hectares and constituting portions of the land covered by Transfer Certificate of Title (TCT) No. T-44664 from the coverage of CARP, pursuant to DAR Administrative Order (AO) No. 6, Series of 1994.[4] The application was docketed as DAR ADM Case No. A-9999-014-98.

Respondent asserted that Comprehensive Agrarian Reform Law (CARL) covers only agricultural land[5] which is defined under Section 3(c) thereof as "land devoted to agricultural activity x x x and not classified as mineral, forest, residential, commercial or industrial land." Respondent claimed that prior to the effectivity of the CARL on June 15, 1988, the lands subject of its application were already re-classified as part of the Residential Cluster Area specified in Zone A VII of the Nasugbu Municipal Zoning Ordinance No. 4, Series of 1982, which zoning ordinance was approved by the Human Settlement Regulatory Commission (HSRC [now the Housing and Land Use Regulatory Board (HLURB)]) under HSRC Resolution No. 123, Series of 1983. Respondent cited DOJ Opinion No. 44 (1990) which provides that lands already classified by a valid zoning ordinance for commercial, industrial or residential use, which ordinance was approved prior to the effectivity of the CARL, no longer need conversion clearance from the DAR.[6]

In support of its application for exemption, respondent submitted, among others, the following documents:

- Letter-application dated 29 September 1997 signed by Elino SJ. Napigkit, for and on behalf of Roxas & Company, Inc., seeking exemption from CARP coverage of subject landholdings;

x x x x

- Photocopy of TCT No. T-44664 and the corresponding Declaration of Real Property No. 024-17-013-01-001;
- Location and vicinity maps of subject landholdings;
- Certification dated 10 July 1997 issued by Administrator Reynaldo Garcia [Administrator Garcia], Municipal Planning and Development Coordinator (MPDC) and Zoning Administrator of Nasugbu, Batangas, stating that the subject parcels of land are within the Residential Cluster Area as specified in Zone VII of Municipal Zoning Ordinance No. 4, series of 1982, approved by the Human Settlements Regulatory Commission (HSRC), now the Housing and Land Use Regulatory Board (HLURB), thru Resolution No. 123, Series of 1983, dated 4 May 1983;
- Certification dated 31 August 1998 issued by Engr. Alfredo M. Tan II [Engr. Tan], Regional Director, HLURB, Region IV, stating that the subject parcels of land appear to be within the Residential Cluster Area as specified in Zone VII of Municipal Zoning Ordinance No. 4, Series of 1982, as approved under HSRC Resolution No. 123, Series of 1983, dated 4 May 1983;
- Three (3) Certifications all dated 8 September 1997 issued by Administrator Rolando T. Bonrostro, Regional Irrigation Manager, National Irrigation Administration (NIA), Region IV; stating that the subject parcels of land are not irrigated, not irrigable lands and not covered by irrigation projects with firm funding commitment; and,
- Certification dated 18 January 1999, issued by Manuel J. Limjoco, Jr., Municipal Agrarian Reform Officer of Nasugbu, Batangas, stating that the subject parcels of land are not covered by Operation Land Transfer (OLT) but covered by a collective Certificate of Land Ownership Award (CLOA) No. 6653 issued to twenty-seven (27) farmer-beneficiaries.

x x x x[7]

Ruling of the Department of Agrarian Reform

Considering that the application for exemption was not accompanied by proof of disturbance compensation,[8] the DAR, through its Center for Land Use Policy, Planning and Implementation (CLUPPI-II), directed respondent to submit proof of payment of disturbance compensation and/or waiver of rights of bona fide occupants.[9]

To comply with the directive, respondent offered payment of disturbance compensation and attempted to obtain the required waivers from herein petitioners who are the farmer-beneficiaries of the subject parcels of land as identified by the DAR. However, the parties failed to reach an agreement as regards the amount of disturbance compensation, hence, respondent filed on September 28, 2001 a Petition[10] to fix disturbance compensation before the Provincial Agrarian Reform

Adjudication Board (PARAD) of Batangas.

In its Order[11] of November 6, 2002, the DAR granted the application in this wise:

WHEREFORE, premises considered, the Application for Exemption Clearance from CARP coverage filed by Roxas & Company, Inc., involving twenty-seven (27) parcels of land, specifically described in pages 1 and 2 of this Order,[[12]] being portions of TCT No. T-44664, with an aggregate area of 21.1236 hectares located [in] Barangay Aga, Nasugbu, Batangas is hereby GRANTED, subject to the following conditions:

- The farmer-occupants within subject parcels of land shall be maintained in their peaceful possession and cultivation of their respective areas of tillage until a final determination has been made on the amount of disturbance compensation due and entitlement of such farmer-occupants thereto by the PARAD of Batangas.

- No development shall be undertaken within the subject parcels of land until the appropriate disturbance compensation has been paid to the farmer-occupants who are determined by the PARAD to be entitled thereto. Proof of payment of disturbance compensation shall be submitted to this Office within ten (10) days from such payment; and
- The cancellation of the CLOA issued to the farmer beneficiaries shall be subject of a separate proceeding before the PARAD of Batangas.

SO ORDERED.[13]

From this Order, petitioners filed a Motion for Reconsideration,[14] Supplemental Motion for Reconsideration[15] and Second Supplemental Motion for Reconsideration.[16] They averred that the bases of the DAR in granting respondent's application for exemption were the Certification[17] dated July 10, 1997 of Administrator Garcia and the Certification[18] dated August 31, 1998 issued by Engr. Tan of the HLURB, Region IV, both of which stated that the subject lands are within the residential cluster area as specified in Zone VII of the (Nasugbu) Municipal Zoning Ordinance No. 4, series of 1982, as approved under HSRC Resolution No. 123, Series of 1983, dated May 4, 1983. However, they claimed that these certifications have already been superseded by Sangguniang Bayan Resolution No. 30, Series of 1993,[19] which classified the area of Barangay Aga as an agricultural zone except for the 50-meter strip from both sides of the National Road with existing roads, which was classified as residential zone. Petitioners also alleged that the application for exemption is already barred by laches or estoppel considering that Certificates of Land Ownership Award (CLOAs) have been issued to petitioners way back in 1991 and that since then, they have been occupying the subject parcels of land in the concept of an owner. Finally, they claimed that they were never notified of the proceedings in the said application despite their being parties-in-interest thereto.

Said motions, however, were dismissed by the DAR in an Order[20] dated December 12, 2003.

Aggrieved, petitioners filed a Petition for Certiorari[21] before the CA.

Ruling of the Court of Appeals

Petitioners averred that Sec. III (B) of DAR AO No. 06, Series of 1994 requires that an application for exemption must be accompanied by certain documents[22] before DAR acquires jurisdiction over the application. And since respondent failed to attach to its application the required proof of disturbance compensation, petitioners claimed that the DAR has no jurisdiction to act on the same. Moreover, petitioners alleged that the payment of disturbance compensation is a condition sine qua non to the grant of exemption and since no disturbance compensation was paid to them, then the DAR gravely abused its discretion amounting to lack or excess of jurisdiction in issuing its assailed Orders.

Petitioners reiterated their argument that the Certifications dated July 10, 1997 and August 31, 1998, respectively issued by the MPDC and HLURB, and used as bases for DAR's assailed Orders granting the application for exemption, have already been superseded by Sangguniang Bayan Resolution No. 30, Series of 1993. This fact was affirmed by the Certification dated January 29, 2003 likewise issued by Administrator Garcia of the MPDC. Also, petitioners argued that since respondent had previously voluntarily offered to sell the subject land to the DAR, then they (petitioners) have already acquired a vested right over the subject properties.

In a Decision[23] dated April 29, 2005, the CA dismissed the petition for certiorari it being an improper remedy. The CA held that petitioners should have filed a petition for review under Section 1, Rule 43 of the Rules of Court.[24] Even if the certiorari petition is considered as properly filed, the CA ruled that it would still dismiss the same as there was no grave abuse of discretion on the part of the DAR in issuing the assailed Orders.

Petitioners filed a Motion for Reconsideration[25] and a Supplemental Motion for Reconsideration[26] but both were denied in a Resolution[27] dated August 11, 2005.

Hence, this Petition for Review on Certiorari.

Issues

Petitioners raise the following issues:

- WHETHER THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OR GRAVE ABUSE OF DISCRETION IN AFFIRMING THE GRANT OF RESPONDENT ROXAS' APPLICATION FOR EXEMPTION FROM COVERAGE OF THE CARL DESPITE THE FACT THAT THE PROPERTY [HAS BEEN THE SUBJECT OF RESPONDENT'S VOLUNTARY OFFER TO SELL TO THE DAR]
- WHETHER THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OR GRAVE ABUSE OF DISCRETION IN AFFIRMING THE GRANT OF RESPONDENT ROXAS' APPLICATION FOR EXEMPTION FROM COVERAGE OF THE CARL WITHOUT THE REQUIRED PAYMENT OF DISTURBANCE COMPENSATION, WITHOUT ANY UNDERTAKING TO PAY THE SAID COMPENSATION AND WITHOUT ANY BOND BEING POSTED BY THE LANDOWNER TO SECURE PAYMENT OF SAID COMPENSATION
- WHETHER THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OR GRAVE ABUSE OF DISCRETION IN RULING THAT THE REMEDY OF APPEAL IS NOT AVAILABLE IN THIS CASE[28]

The Parties' Arguments

Petitioners insist that a certiorari petition, instead of a petition for review under Rule 43 of the Rules of Court, is the proper remedy since what they principally questioned before the CA was the jurisdiction of the DAR to take cognizance of the application. Even assuming that a petition for review is the proper mode of appeal, petitioners contend that they can still resort to the remedy of certiorari pursuant to settled jurisprudence[29] that the Court, in exceptional cases, may consider certiorari as the appropriate remedy.[30] "[T]he writ [may] be granted where necessary to prevent a substantial wrong or to do substantial justice."[31] Since in this case, petitioners stand to lose the land they are tilling without receiving the appropriate disturbance compensation, the ends of justice dictate that they be entitled to the writ of certiorari.

Petitioners likewise aver that since respondent had previously voluntarily offered to sell the subject parcels of land to the DAR, it can no longer withdraw the same from the CARP's coverage. Under DAR Memorandum Circular No. 02, Series of 1998,[32] a landowner who voluntarily offers to sell his property but failed to submit the required documents shall be notified that the property offered for sale shall be acquired by compulsory acquisition. This means that once a landowner has voluntarily offered to sell his property, he can no longer withdraw it from the coverage of the land reform law as the DAR will nevertheless acquire it through compulsory acquisition even if he fails to submit the documents required. Moreover, petitioners claim that estoppel has already set in considering that respondent filed its application only after eight years from the time it voluntarily offered to sell the property.

Petitioners also cite Section III (B), paragraph 8 of DAR AO No. 06, Series of 1994 which provides that an application for exemption should be accompanied by proof of payment of disturbance compensation, if the area is occupied by farmers, or waiver/undertaking by the occupants that they will vacate the area whenever required. There being no payment of disturbance compensation here, respondent should have submitted such a waiver/undertaking. Also, when respondent was granted exemption, conditional as it is since same is subject to

the payment of disturbance compensation, it should have posted a bond in an amount to be determined by the adjudicator pursuant to paragraphs 4.4 and 4.5 of DAR AO No. 4, Series of 2003[33] viz:

4.4. Whenever there is a dispute on the fixing of disturbance compensation or entitlement to disturbance compensation, the Regional Director shall refer the matter to the Adjudicator who shall be bound to take cognizance of and resolve the case despite the non-finality of the issue on whether or not the subject land is exempt from CARP.

4.5. The Approving Authority may grant a conditional exemption order, despite non-payment of disturbance compensation or while awaiting determination of entitlement thereto, subject however to the condition that the applicant and/or landowner shall post a bond in an amount to be determined by the Adjudicator. Notwithstanding the posting of such bond, the property applied for exemption shall not be developed for non-agricultural purposes and the farmers, agricultural lessees, share tenants, farmworkers, and actual tillers thereof cannot be ejected therefrom until the finality of the exemption order.

In contravention of the above-quoted provisions, however, no bond was posted in this case.

Lastly, petitioners cite Section VIII of said DAR AO No. 04, Series of 2003

which provides that:

VIII. EFFECT ON PRE-EXISTING CARP COVERAGE

When the filing of an application for exemption clearance is in response to a notice of CARP coverage, the DAR shall deny due course to the application if it was filed after sixty (60) days from the date the landowner received a notice of CARP Coverage.

Petitioners allege that here, respondent filed its application for exemption more than eight years from its receipt of the notice of CARP coverage on August 23, 1989. While conceding that said administrative order was issued only in 2003, petitioners argue that same is applicable to respondent as this merely interpreted both Sec. 3 of R.A. No. 6657 and DOJ Opinion No. 44, Series of 1990, which were already in effect long before respondent filed its application.

Respondent, for its part, emphasizes that petitioners resorted to a wrong mode of appeal. For this alone, it contends that the CA correctly dismissed petitioners' petition for certiorari.

As regards petitioners' other arguments, respondent addresses them point by point.

Respondent refutes petitioners' contention that a landowner can no longer withdraw his property from the coverage of CARP once he has voluntarily offered to sell the same to the DAR by invoking this Court's ruling in the related case of *Roxas & Company, Inc. v. Court of Appeals*.^[34] There it was held that as part of administrative due process, the DAR must first comply with the notice requirement before a Voluntary Offer to Sell (VOS) is accepted. For failure of the DAR to send notices to Roxas to attend the survey and the land valuation meeting before accepting the VOS, the acceptance of the VOS and the entire acquisition proceedings over three haciendas, including Hacienda Caylaway, where the parcels of land subject of this case are located, were nullified. Moreover, respondent stresses that DAR Memorandum Circular No. 02 Series of 1998 upon which petitioners anchor their assertion that a VOS cannot be withdrawn was issued 10 years after the VOS in this case was made in 1988. Aside from arguing that the circular cannot be applied retroactively, respondent asserts that there is nothing in such circular which prohibits, either expressly or impliedly, a landowner from withdrawing a VOS. If at all, said circular merely serves as guide to be followed by the concerned DAR officials in cases where landowners have voluntarily offered to sell their land to the government.

Anent the claim that payment of disturbance compensation is a condition sine qua non to the grant of an application for exemption, respondent invokes the Court's ruling in *Bacaling v. Muya*[35] that farmer-beneficiaries are not entitled to disturbance compensation because the lots subject thereof never became available for agrarian reform. This was because said lots were already classified as residential prior to the effectivity of Presidential Decree No. 27 and R.A. No. 6657. Similarly in this case, respondent contends that petitioners are not entitled to disturbance compensation because the subject landholdings are not and have never been available for agrarian reform as they have been classified as residential properties prior to the effectivity of the CARL. However, believing in good faith that it has the legal obligation to pay disturbance compensation, respondent still filed a Petition to fix disturbance compensation before the PARAD after petitioners refused to accept respondent's offer of disturbance compensation or to execute a waiver/undertaking that they will vacate the area whenever required.

With respect to the requirement of bond under paragraph 4.5 of DAR AO No. 4, Series of 2003, respondent counter-argues that such was not a requirement at the time of the filing of its application. It asserts that said administrative order cannot be retroactively applied to its application which was filed prior to said administrative order's issuance.

Finally, respondent avers that petitioners' invocation of Section VIII of DAR AO No. 04, Series of 2003 is downright illogical. It points out that it received a notice of compulsory acquisition way back in 1989 while said AO was issued only in 2003. Respondent asserts that this provision cannot be given retroactive application; otherwise, it would prejudice its vested right to file an application, which at that time, was not yet subject to the 60-day period. More importantly, there was no valid notice of coverage to speak of as held in *Roxas & Company, Inc. v. Court of Appeals*.

Our Ruling

There is no merit in the petition.

We note at the outset that this case is intimately related to *Roxas & Company, Inc. v. Court of Appeals* [36] and *Roxas & Company, Inc. v. DAMBA-NFSW*, [37] earlier resolved by this Court on December 17, 1999 and December 4, 2009, respectively. In fact, the present case is similar to one [38] of the seven consolidated petitions in *Roxas & Company, Inc. v. DAMBA-NFSW*, except that the parcels of land involved therein are located in Hacienda Palico, while here, they are situated in Hacienda Caylaway. [39]

For purposes of discussion, a brief overview of said two cases is proper.

Roxas & Company, Inc. v. Court of Appeals involves three haciendas in Nasugbu, Batangas, namely, Palico, Banilad and Caylaway, owned by herein respondent Roxas & Company, Inc. At issue there was the validity of the haciendas' coverage under the CARP as well as Roxas' application for their conversion from agricultural to non-agricultural use. For failure to observe due process, the acquisition proceedings over the haciendas were nullified. With respect, however, to the application for conversion, the Court held that DAR is in a better position to resolve the same, it being the primary agency possessing the necessary expertise on the matter. In its Decision dated December 17, 1999, this Court ordered the remand of the case to the DAR for proper acquisition proceedings and determination of Roxas's application for conversion.

Roxas & Company, Inc. v. DAMBA-NFSW, on the other hand, involved seven consolidated petitions, [40] the main subjects of which were Roxas' application for conversion from agricultural to non-agricultural use of said three haciendas and exemption from CARP coverage. Apparently, after the remand of the case to the DAR in *Roxas & Company, Inc. v. Court of Appeals* and during the pendency of Roxas' application for conversion, it likewise filed an application for exemption of the haciendas from the CARP's coverage on the basis of

Presidential Proclamation No. 1520[41] and DAR AO No. 6, Series of 1994.[42]

Two of the seven consolidated petitions relevant to the present case are G.R. Nos. 167505[43] and 179650.[44] Both petitions revolved around Roxas' application for exemption under DAR AO No. 6, Series of 1994 invoking as basis the same (Nasugbu) Municipal Zoning Ordinance No. 4 earlier alluded to. In resolving them, the Court recognized the power of a local government unit to classify and convert land from agricultural to non-agricultural prior to the effectivity of the CARL and thus upheld the validity of said zoning ordinance. However, in G.R. No. 179650, the Court found that the DAR acted with grave abuse of discretion when it granted the application for exemption considering that there exist uncertainties on the location and identities of the properties being applied for exemption. It stated that Roxas should have submitted the comprehensive land use plan and pinpointed therein the location of the properties to prove that they are indeed within the area of coverage of the subject (Nasugbu) Municipal Zoning Ordinance No. 4.

With respect to G.R. No. 167505, we quote the pertinent portions of the Court's December 4, 2009 Decision:

In its application, Roxas & Co. submitted the following documents:

1. Letter-application dated 29 September 1997 signed by Elino SJ. Napigkit, for and on behalf of Roxas & Company, Inc., seeking exemption from

CARP coverage of subject landholdings;

2. Secretary's Certificate dated September 2002 executed by Mariano M. Ampil III, Corporate Secretary of Roxas & Company, Inc., indicating a Board Resolution authorizing him to represent the corporation in its application for exemption with the DAR. The same Board Resolution revoked the authorization previously granted to the Sierra Management & Resources Corporation;

3. Photocopy of TCT No. 985 and its corresponding Tax Declaration No. 0401;

4. Location and vicinity maps of subject landholdings;

5. Certification dated 10 July 1997 issued by Reynaldo Garcia, Municipal Planning and Development Coordinator (MPDC) and Zoning Administrator of Nasugbu, Batangas, stating that the subject parcels of land are within the Urban Core Zone as specified in Zone A. VII of Municipal Zoning Ordinance No. 4, Series of 1982, approved by the Human Settlements Regulatory Commission (HSRC), now the Housing and Land Use Regulatory Board (HLURB), under Resolution No. 123, Series of 1983, dated 4 May 1983;

6. Two (2) Certifications both dated 31 August 1998, issued by Alfredo Tan II, Director, HLURB, Region IV, stating that the subject parcels of land appear to be within the Residential cluster Area as specified in Zone VII of Municipal Zoning Ordinance No. 4, Series of 1982, approved under HSRC Resolution No. 123, Series of 1983, dated 4 May, 1983

x x x x

By Order of November 6, 2002, the DAR Secretary granted the application for exemption but issued the following conditions:

1. The farmer-occupants within subject parcels of land shall be maintained in their peaceful possession and cultivation of their respective areas of tillage until a final determination has been made on the amount of disturbance compensation due and entitlement of such farmer-occupants thereto by the PARAD of Batangas;

2. No development shall be undertaken within the subject parcels of land until the appropriate disturbance compensation has been paid to the farmer-occupants who are determined by the PARAD to be entitled thereto. Proof of payment of disturbance compensation shall be submitted to this Office within ten (10) days from such

payment; and

3. The cancellation of the CLOA issued to the farmer-beneficiaries shall be subject of a separate proceeding before the PARAD of Batangas.

DAMBA-NSFW moved for reconsideration but the DAR Secretary denied the same x x x x.

x x x x

On DAMBA-NSFW's petition for certiorari, the Court of Appeals, x x x x sustained, by Decision of December 20, 1994 and Resolution of May 7, 2007, the DAR Secretary's finding that Roxas & Co. had substantially complied with the prerequisites of DAR AO 6, Series of 1994. Hence, DAMBA-NSFW's petition in G.R. No. 167505.

The Court finds no reversible error in the Court of Appeals' assailed issuances, the orders of the DAR Secretary which it sustained being amply supported by evidence.[45] (Emphasis and underscoring in the original.)

In view of this, the Court ordered the cancellation of the CLOAs issued to farmer-beneficiaries of the nine parcels of land in DAR Administrative Case No. A-9999-008-98 subject of G.R. No. 167505, conditioned, however, on the satisfaction of the disturbance compensation of said farmer-beneficiaries pursuant to R. A. No. 3844, as amended[46] and DAR AO No. 6, Series of 1994.[47]

Remarkably, in its application for exemption in DAR ADM Case No. A-9999-014-98 subject of this case, respondent submitted documents in support of its application for exemption similar to those submitted by it in DAR Administrative Case No. A-9999-008-98 subject of G.R. No. 167505. And, having established through said documents that the 27 parcels of land are within the coverage of the said (Nasugbu) Municipal Zoning Ordinance No. 4, the DAR declared as well that respondent substantially complied with the requirements of DAR AO No. 6, series of 1994 in DAR ADM Case No. A-9999-014-98. The DAR thus granted the application in an Order of the same date and of exactly the same tenor as that issued in DAR Administrative Case No. A-9999-008-98.

Given this backdrop, we are inclined to uphold the DAR's November 6, 2002 Order which granted respondent's application for exemption in DAR Administrative Case No. A-9999-014-98 subject of this case. Aside from the fact that this Court in *Roxas & Company, Inc. v. DAMBA-NSFW* has already upheld the grant of a similar application which, notably, was supported by the same documents submitted in support of the application herein, our own review of the records of this case reveals that there was indeed no error on the part of the DAR in issuing said Order. The documents submitted by respondent to support its application for exemption as well as the Investigation Report of CLUPPI-II[48] clearly show that the 27 parcels of land, specifically identified, were already re-classified as residential prior to the effectivity of the CARL. "Well-settled is the rule that findings of fact of x x x quasi-judicial bodies (like the DAR) which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only great respect but even finality. They are binding upon this Court unless there is a showing of grave abuse of discretion or where it is clearly shown that they were arrived at arbitrarily or in utter disregard of the evidence on record." [49]

On this ground alone we can already deny the petition. Nonetheless, we shall proceed to discuss the issues raised by petitioners.

Petitioners resorted to a wrong mode of appeal.

"Section 61[50] of R.A. No. 6657 clearly mandates that judicial review of DAR orders or decisions are governed by the Rules of Court. The Rules direct that it is Rule 43 that governs the procedure for judicial review of decisions, orders, or resolutions of the DAR Secretary." [51] Hence here, petitioners should have assailed before

the CA the November 6, 2002 and December 12, 2003 Orders of the DAR through a Petition for Review under Rule 43. "By pursuing a special civil action for certiorari under Rule 65 rather than the mandatory petition for review under Rule 43, petitioners opted for the wrong mode of appeal." [52]

Petitioners assert that a certiorari petition is the proper mode since what they principally questioned before the CA was the jurisdiction of the DAR to take cognizance of respondent's application for exemption.

We are not persuaded. It bears stressing that it is the law which confers upon the DAR the jurisdiction over applications for exemption. [53] And, "[w]hen a court, tribunal or officer has jurisdiction over the person and the subject matter of the dispute, the decision on all other questions arising in the case is an exercise of that jurisdiction. Consequently, all errors committed in the exercise of said jurisdiction are merely errors of judgment. Under prevailing procedural rules and jurisprudence, errors of judgment are not proper subjects of a special civil action for certiorari." [54] Besides, petitioners' basis in claiming that the DAR has no jurisdiction to take cognizance of respondent's application for exemption is gravely flawed. The submission of proof of payment of disturbance compensation is not jurisdictional as to deprive the DAR of the power to act on an application for exemption. To reiterate, jurisdiction over the subject of a case is conferred by law. [55]

Also untenable is petitioners' assertion that even assuming that a petition for review under Rule 43 is the proper remedy, they are still entitled to the writ of certiorari. Petitioners posit that an exceptional circumstance in this case calls for the issuance of the writ, i.e., they stand to lose the land they till without receiving the appropriate disturbance compensation. It is well to remind petitioners, however, that the assailed November 6, 2002 Order of the DAR granting respondent's application for exemption is subject to the payment of disturbance compensation to the farmer-beneficiaries of the subject parcels of land. Hence, petitioners' fear that they will be deprived of the land they till without payment of disturbance compensation is totally without basis. There being no substantial wrong or substantial injustice to be prevented here, petitioners cannot therefore invoke the exception to the general rule that a petition for certiorari will not lie if an appeal is the proper remedy.

Thus, we are totally in accord with the CA's finding that petitioners resorted to a wrong remedy.

The fact that respondent had previously voluntarily offered to sell the subject properties to the DAR is immaterial in this case.

Indeed, respondent had previously voluntarily offered to sell to the DAR Hacienda Caylaway, where the properties subject of this case are located. However, this offer to sell became irrelevant because respondent was later able to establish before the DAR that the subject 27 parcels of land were reclassified as non-agricultural (residential) by virtue of (Nasugbu) Municipal Zoning Ordinance No. 4 prior to the effectivity of the CARL on June 15, 1988. "In *Natalia Realty, Inc. vs. Department of Agrarian Reform*, [56] it was held that lands not devoted to agricultural activity are outside the coverage of CARL including lands previously converted to non-agricultural uses prior to the effectivity of CARL by government agencies other than the DAR." [57] This being the case, respondent is not bound by its previous voluntary offer to sell because the subject properties cannot be the subject of a VOS, they being clearly beyond the CARP's coverage.

Respondent substantially complied with the requirements of DAR AO No. 6, Series of 1990.

Indeed, respondent's application for exemption was not accompanied by proof of disturbance compensation or by petitioners' waiver/undertaking that they will vacate the subject parcels of land whenever required. However, this Court finds that respondent has substantially complied with this requirement found under Section III (B) of DAR

AO No. 6, Series of 1990.

Records show that upon being required by CLUPPI-II to submit proof of payment of disturbance compensation and/or waiver of rights of bona fide occupants after an evaluation of its application for exemption revealed that it was not accompanied by the same,[58] respondent exerted efforts to comply with the said requirement. It offered to pay petitioners their disturbance compensation but they failed to agree on the price. Petitioners also refused to execute a waiver/ undertaking. Respondent thus filed a Petition to fix disturbance compensation before the PARAD. To prove these, it submitted to the DAR a (1) Certification dated September 10, 2001, issued by Manuel J. Limjoco, Jr., MARO of Nasugbu, Batangas, stating that there was failure to reach an amicable settlement on the matter of disturbance compensation between the parties; and (2) copy of the Petition to fix disturbance compensation duly received by the PARAD on September 28, 2001.[59] To us, these constitute substantial compliance with the said particular requirement of Section III (B), DAR AO No. 6, Series of 2002. At any rate, the lack of proof of such payment later proved to be of no consequence since the assailed November 6, 2002 Order of the DAR was nevertheless made subject to the condition of payment of disturbance compensation to petitioners. In fact, the Order likewise states that 10 days from such payment, proof of payment of disturbance compensation must be submitted to the DAR.

The issues regarding respondent's non-posting of bond pursuant to Section IV, paragraph 4.5 of DAR AO No. 4, Series of 2003 and its non-compliance with Section VIII thereof were belatedly raised.

A careful review of the records reveals that petitioners raised the issues of respondent's non-posting of bond pursuant to Section IV, paragraph 4.5 of DAR AO No. 4, Series of 2003 and its non-compliance with Section VIII thereof only in their Motion for Reconsideration of the CA's assailed Decision. While petitioners themselves alleged that DAR AO No. 4, Series of 2003 was already in effect during the pendency of their Motions for Reconsideration before the DAR, there is no showing that they raised these points therein. "It is well-settled that no question will be entertained on appeal unless it has been raised in the proceedings below. Points of law, theories, issues and arguments not brought to the attention of the lower court, administrative agency or quasi-judicial body, need not be considered by a reviewing court, as they cannot be raised for the first time at that late stage. Basic considerations of fairness and due process impel this rule. Any issue raised for the first time on appeal is barred by estoppel." [60] Thus, petitioners cannot now be allowed to challenge the assailed Orders of the DAR on grounds of technicalities belatedly raised as an afterthought.

WHEREFORE, this petition is DENIED. The assailed Decision dated April 29, 2005 and Resolution dated August 11, 2005 of the Court of Appeals in CA-G.R. SP No. 82709 are AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Villarama, Jr., and Sereno,[*] JJ., concur.

[*] In lieu of Associate Justice Lucas P. Bersamin, per Raffle dated August 31, 2011.

[1] CA rollo, pp. 211-227; penned by Associate Justice Vicente S.E. Veloso and concurred in by Associate Justices Roberto A. Barrios and Amelita G. Tolentino.

[2] Id. at 19-25 and 39-50, respectively.

[3] Id. at 277-282.

[4] Guidelines for the Issuance of Exemption Clearances based on Sec. 3(c) of Republic Act No. 6657 and the Department of Justice Opinion No. 44 Series of 1990.

[5] Sec. 4. Scope - The Comprehensive Agrarian Reform Law of 1988 shall cover, regardless of tenurial arrangement and commodity produced, all public and private and agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture.

x x x x (Emphasis supplied.)

[6] Said Department of Justice Opinion states that the legal requirement for the Department of Agrarian Reform clearance in cases of land use conversion from agricultural to non-agricultural uses applies only to conversion made on or after June 15, 1988, the date of the agrarian reform law's effectivity.

[7] See pp. 2-3 of the Department of Agrarian Reform's assailed Order of November 6, 2002, CA rollo, pp. 20-21.

[8] III (B) of DAR Administrative Order No. 6, Series of 1990 provides:-

III. FILING OF THE APPLICATION

x x x x

B. The application should be duly signed by the landowner or his representative, and should be accompanied by the following documents:

1. Duly notarized Special Power of Attorney, if the applicant is not the landowner himself;
2. Certified true copies of the titles which is the subject of the application;
3. Current tax declaration(s) covering the property;
4. Location Map or Vicinity Map
5. Certification from the Deputized Zoning Administrator that the land has been reclassified to residential industrial or commercial use prior to June 15, 1988;
6. Certification from the HLURB that the pertinent zoning ordinance has been approved by the Board prior to June 15, 1988;
7. Certification from the National Irrigation Administration that the land is not covered by Administrative Order No. 20 s. 1992, i.e., that the area is not irrigated, nor scheduled for irrigation rehabilitation nor irrigable with firm funding commitment.
8. Proof of payment of disturbance compensation, if the area is presently being occupied by farmers, or waiver/undertaking by the occupants that they will vacate the area whenever required. (Emphasis supplied.)

[9] See DAR CLUPPI-II's Letter dated July 31, 2001 addressed to respondent's representative Atty. Mariano Ampil III, CA rollo, p. 68.

[10] Id. at 57-61.

[11] Id. at 19-25.

[12] The 27 parcels of land subject of the application are particularly described as follows in the said DAR Order:

DAR LOT NO.

DAR SURVEY PLAN

AREA (in has.)

79

Psd-04-045072 (AR)

3.3234

87

Psd-04-045072 (AR)

0.2408

88

Psd-04-045072 (AR)

0.0706

89

Psd-04-045072 (AR)

0.7027

90

Psd-04-045072 (AR)

2.3763

91

Psd-04-045072 (AR)

0.2663

92

Psd-04-045072 (AR)

1.0109

99

Psd-04-045072 (AR)

0.4619

100

Psd-04-045072 (AR)

1.5665

101

Psd-04-045072 (AR)

0.5449

102

Psd-04-045072 (AR)

0.4069

139

Psd-04-045072 (AR)

0.1645

141

Psd-04-045072 (AR)

0.2716

548

Psd-04-045071 (AR)

0.3941

549

Psd-04-045071 (AR)

1.0917

550

Psd-04-045071 (AR)

0.1871

551

Psd-04-045071 (AR)

2.0000

552

Psd-04-045071 (AR)

1.6392

553

Psd-04-045071 (AR)

0.5236

554

Psd-04-045071 (AR)

0.3841

555

Psd-04-045071 (AR)

0.2260

556

Psd-04-045071 (AR)

0.2783

557

Psd-04-045071 (AR)

0.6531

564

Psd-04-045071 (AR)

0.9600

565

Psd-04-045071 (AR)

0.3757

655

Psd-04-045071 (AR)

0.2437

681

Psd-04-045071 (AR)

0.7597

TOTAL

21.1236

[13] CA rollo, pp. 23-24.

[14] Id. at 26-28.

[15] Id. at 29-30.

[16] Id. at 33-34.

[17] Id. at 54-55.

[18] Id. at 193.

[19] See the Certification to that effect issued on January 29, 2003, id. at 35.

[20] Id. at 39-50.

[21] Id. at 2-18.

[22] Supra note 8.

[23] Supra note 1.

[24] The section provides that Rule 43 shall apply to appeals from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among the agencies enumerated is the Department of Agrarian Reform under Republic Act No. 6657.

[25] CA rollo, pp. 233-241.

[26] Id. at 243-246.

[27] Supra note 3.

[28] Rollo, p. 24.

[29] Estate of Salud Jimenez v. Phil. Export Processing Zone, 402 Phil. 271, (2001) and Gutib v. Court of Appeals, 371 Phil. 293 (1999).

[30] Like for instance, "in order to prevent irreparable damage and injury to a party where the trial judge has capriciously and whimsically exercised his judgment, or where there may be danger of clear failure of justice, or where an ordinary appeal would simply be inadequate to relieve a party from injurious effect of the judgment complained of." Estate of Salud Jimenez v. Phil. Export Processing Zone, supra at 284.

[31] Gutib v. Court of Appeals, supra at 307.

[32] Compulsory Acquisition of Landholdings Covered by Voluntary Offer to Sell.

[33] 2003 Rules on Exemption of Lands from CARP Coverage Under Section 3(c) of Republic Act No. 6657 and Department of Justice Opinion No. 44, Series of 1990.

[34] 378 Phil. 727 (1999).

[35] 430 Phil. 531 (2002).

[36] Supra note 34.

[37] G.R. Nos. 149548, 167505, 167540, 167543, 167845, 169163, and 179650, December 4, 2009, 607 SCRA 33.

[38] G.R. No. 167505 entitled *Damayan ng mga Manggagawang Bukid sa Asyenda Roxas-National Federation of Sugar Workers (DAMBA-NFSW)*, petitioner, vs. Secretary of the Dept. of Agrarian Reform, Roxas & Co., Inc. and/or Atty. Mariano Ampil, respondents.

[39] TCT No. T-44664 which covered the 27 parcels of land in DAR ADM Case No. A-9999-014-98 subject of this case is one of the four titles covering the entire 867,4571 hectares of Hacienda Caylaway.

[40] G.R. No. 149548 entitled *Roxas & Company, Inc.*, petitioner, v. *DAMBA-NFSW* and the Department of Agrarian Reform, respondents; G.R. No. 167505 entitled *Damayan ng mga Manggagawang Bukid sa Asyenda Roxas-National Federation of Sugar Workers (DAMBA-NFSW)*, petitioner, v. Secretary of the Dept. of Agrarian Reform, Roxas & Co., Inc. and/or Atty. Mariano Ampil, respondents; G.R. No. 167540 entitled *Katipunan ng mga Magbubukid sa Hacienda Roxas, Inc. (KAMAHARI)*, rep. by its President Carlito Caisip, and *Damayan ng Manggagawang Bukid sa Asyenda Roxas-National Federation of Sugar Workers (DAMBA-NFSW)*, represented by Lauro Martin, petitioners, v. Secretary of the Dept. of Agrarian Reform, Roxas & Co., Inc., respondents; G.R. No. 167543 entitled *Department of Land Reform, formerly Department of Agrarian Reform (DAR)*, petitioner v.

Roxas & Co., Inc., respondent; G.R. No. 167845 entitled Roxas & Co, Inc., petitioner, v. DAMBA-NFSW, respondent; G.R. No. 169163 entitled DAMBA-NFSW, represented by Lauro V. Martin, petitioner, v. Roxas & Co. Inc., respondent; and G.R. No. 179650 entitled DAMBA-NFSW, petitioner v. Roxas & Co., Inc., respondent.

[41] Declaring the Municipalities of Maragondon and Ternate in Cavite Province and the Municipality of Nasugbu in Batangas as a Tourist Zone, and for Other Purposes, issued on November 28, 1975 by then President Ferdinand E. Marcos.

[42] Supra note 4.

[43] Subject of this petition was Roxas' application for exemption of nine parcels of land located in Hacienda Palico docketed as DAR Administrative Case No. A-9999-008-98.

[44] Subject of this petition was Roxas' application for exemption of six parcels of land also located in Hacienda Palico docketed as DAR Administrative Case No. A-9999-142-97.

[45] Supra note 37 at 64-66.

[46] AN ACT TO ORDAIN THE AGRICULTURAL LAND REFORM CODE AND TO INSTITUTE LAND REFORMS IN THE PHILIPPINES, INCLUDING THE ABOLITION OF TENANCY AND THE CHANNELING OF CAPITAL INTO INDUSTRY, PROVIDE FOR THE NECESSARY IMPLEMENTING AGENCIES, APPROPRIATE FUNDS THEREFOR AND FOR OTHER PURPOSES, AS AMENDED BY REPUBLIC ACT NO. 6389; It mandates that disturbance compensation be given to tenants of parcels of land upon finding that the landholding is declared by the department head upon recommendation of the National Planning Commission to be suited for residential, commercial, industrial or some urban purposes.

[47] It directs payment of disturbance compensation before the application for exemption may be completely granted.

[48] CA rollo, p. 22.

[49] *Samahan ng mga Manggagawa sa Hyatt-NUWHRAIN-APL v. Bacungan*, G.R. No. 149050, March 25, 2009, 582 SCRA 369, 376-377.

[50] Sec. 61. Procedure on Review. - Review by the Court of Appeals or the Supreme Court, as the case may be, shall be governed by the Rules of Court. x x x.

[51] *Sebastian v. Hon. Morales*, 445 Phil. 595, 607 (2003).

[52] *Id.*

[53] Sec. 50 of the CARL provides:

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 x x x.

Thus, Section 3, Rule II of the 2003 DARAB Rules of Procedure provides:

SECTION 3. Agrarian Law Implementation Cases. - The Adjudicator or the Board shall have no jurisdiction over matters involving the administrative implementation of RA No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL) of 1988 and other agrarian laws as enunciated by pertinent rules and administrative orders, which shall be under the exclusive prerogative of and cognizable by the Office of the Secretary of the DAR in accordance with his issuances, to wit:

x x x x

3.7 Application for exemption pursuant to Department of Justice (DOJ) Opinion No. 44 (1990);

x x x x

[54] Sebastian v. Hon. Morales, *supra* note 51 at 608.

[55] Municipality of Kananga v. Judge Madrona, 450 Phil. 394, 396 (2003).

[56] G.R. No. 103302, August 12, 1993, 225 SCRA 278.

[57] De Guzman v. Court of Appeals, G.R. No. 156965, October 12, 2006, 504 SCRA 238, 245.

[58] *Supra* note 9.

[59] CA rollo, p. 21.

[60] Besana v. Mayor, G.R. No. 153837, July 21, 2010, 625 SCRA 203, 214.

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