

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. AMS FARMING CORPORATION, RESPONDENT.*G.R. No. 174971. October 15, 2008*

Ponente: CHICO-NAZARIO, J.

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Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court filed by petitioner Land Bank of the Philippines (LBP) seeking the reversal and setting aside of (1) the Decision[2] dated 28 March 2006 of the Court of Appeals which dismissed the Petition for Review of LBP in CA-G.R. SP No. 77520; and (2) the Resolution[3] dated 26 September 2006 of the appellate court which denied the Motion for Reconsideration of LBP. In its assailed Decision, the Court of Appeals effectively affirmed the Decision[4] dated 11 March 2003 of the Regional Trial Court (RTC), Tagum City, Davao del Norte, Branch 2, acting as a Special Agrarian Court in Special Agrarian Case No. 61-2000, ordering the Department of Agrarian Reform (DAR), through the LBP, to pay respondent AMS Farming Corporation (AMS) just compensation for the standing crops and various improvements it introduced on the land owned by Totco Credit Corporation (TOTCO), all fees and expenses of the Court-appointed Commissioners, and attorney's fees.

I**The Antecedent Facts**

There is no controversy as to the antecedent facts that gave rise to the Petition at bar.

The Lease Agreements

The National Abaca and Other Fibers Corporation (NAFCO) was the owner of a piece of agricultural land with an area of 73.7 hectares, more or less, located in Barrio Sampao, Municipality of Kapalong, Province of Davao. On 21 September 1970, NAFCO leased a 51-hectare portion of said land to AMS for a period of 15 years.[5] When Apeco Motors Corporation (APECO) acquired ownership of the land, the said lease agreement was registered and annotated on its certificate of title.

Upon the expiration of the first lease agreement, APECO and AMS executed on 21 February 1986 a new Lease Agreement[6] over 51.15 hectares of the same agricultural land, for a period of 10 years, beginning on 1 November 1985 and ending on 31 October 1995. Again, the Lease Agreement was registered and annotated on the certificate of title of APECO.

Sometime during the effectivity of the lease, ownership of the afore-mentioned agricultural land was transferred to TOTCO.

Also, on 15 June 1988, just a little over two years from the execution of the Lease Agreement between APECO and AMS, Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL), took effect. The CARL espoused the policy of the State to pursue a Comprehensive Agrarian Reform Program

(CARP), whereby the State undertook the just distribution of all agricultural lands, subject to the priorities and retention limits set forth in the CARL and to the payment of just compensation.[7]

On 8 August 1991, four years before the expiration of the existing Lease Agreement, TOTCO and AMS executed a Memorandum of Agreement (MOA) wherein they agreed to increase the area leased to 61.65 hectares, and renew the lease for another 25 years, commencing on 1 November 1991 and expiring on 31 October 2016. Unlike the previous lease agreements, however, the MOA was never registered.

As the lessee of a significant portion of the agricultural land, AMS developed a banana plantation thereon, cultivating and planting on the leased property Cavendish banana for export, and introducing the necessary improvements and infrastructures.

DAR Case No. 52-99

On 9 September 1996, TOTCO submitted to the DAR a voluntary offer to sell (VOS) of its agricultural land, including the area leased to AMS. Adopting the valuation made by the LBP, the DAR issued a notice of valuation and acquisition offering the amount of P1,806,754.83 as just compensation for the property. When TOTCO rejected the proffered amount, the matter was endorsed to the DAR Adjudication Board (DARAB), where it was docketed as DARAB Case No. LV-XI-1713-DN-97. The DARAB, in a Decision dated 3 November 1998, upheld the valuation of just compensation made by the LBP.

Still unsatisfied with the amount of just compensation being offered for its agricultural land, TOTCO filed on 23 April 1999 with the RTC, acting as a Special Agrarian Court, a Complaint against the DAR and LBP for the determination of just compensation. The Complaint was docketed as DAR Case No. 52-99.

The DAR failed to file its Answer and upon motion of TOTCO, it was declared by the RTC to be in default on 20 July 1999.

The RTC appointed a panel of Commissioners to conduct a fair valuation of the property, and submit its findings and Report, including its Recommendation on the just compensation. The panel of Commissioners submitted its Appraisal Report for approval of the RTC on 21 January 2000. In its Report, the panel found acceptable the valuation presented by TOTCO of P328,026.85 per hectare of the agricultural land planted with Cavendish banana. Pertinent portions of the Report are reproduced below:

This Commission is aware of an existing Order promulgated by the Honorable Judge Bernardo V. Saldares of the Special Agrarian Court, Tagum City, in a certain DAR Case, a property engaged in banana production for export also located in Kapalong wherein the Provincial Agrarian Reform Adjudicator appraised said land at P205,774.80 per hectare for the entire 20.1362 hectares as the new fair and just reasonable compensation for the subject landholdings or for a total valuation of P4,143,325 (Provincial Agrarian Reform Adjudicator Atty. Danica L. Aminin on March 12, 1998, in DARAB Case No. LV-XI-0690-96 regarding a 20.1362 hectare banana land of landowner, BALMAR FARMS, INC.) Exh. "E", page 27, par. 2 (marginally-lined of a decision of Hon. Bernardo V. Saldares.)

In that same decision the same Honorable Judge allowed P140,000 per hectare as appraised value for developments/improvements that is, Road Networks, Bridges, Drainage Canals, Cableways and Aerial Proppings (Exh. "F", page 31, decision promulgated by Hon. Bernardo V. Saldares.)

So we have the following as the total value per hectare for a land with the same industry and undertaking, within the same Municipality:

Land with standing banana plants -

P205,774.90

For developments and improvements -

140,000.00

T O T A L -

P345,774.90

vvvvvvvvvv

This can be favorably compared to the P328,026.85 claimed by [AMS].

The actual area acquired by the DAR and valued

LBP is..... 70.8118 has.

Area planted to native

variety and others..... 8.0000 has.

Thus: 62.8118 has. x P328,026.85 = P20,603,903

8.0000 has. x 100,000.00 = 800,000.00

70.8118 has. for a total of = P21,403,903[8]

On 8 March 2000, the RTC rendered its Decision[9] in DAR Case No. 52-99, adopting the amount of just compensation recommended by the panel of Commissioners. The dispositive portion of the said Decision reads:

WHEREFORE, consistent with all the foregoing premises, judgment is hereby rendered providing for the fair, just and reasonable compensation of plaintiff-[TOTCO's] titled banana lands and improvements as follows:

First: -- For defendants-DAR as Expropriator and Land Bank of the Philippines, jointly and severally, to pay the plaintiff-TOTCO CREDIT CORPORATION (FORMERLY APECO MOTORS CORP.) the determined, as herein the fixed valuation as the fair, just and reasonable compensation of its titled banana lands at Sampao, Kapalong, Davao del Norte, including its improvements thereon, the total amount of P21,403,903.00 or Twenty-one Million Four Hundred Three Thousand Nine Hundred Three Pesos, Philippine Currency, with interest which shall be based on the rate of interest of the 90-Day Treasury Bills as provided for under Sec. 18, par. 4(a) of RA 6657, and as expressly prayed for in [TOTCO's] complaint;

Second: -- For defendants-DAR as Expropriator and Land Bank of the Philippines, jointly and severally, to pay all fees due to the Commissioners to be taxed as part of the costs pursuant to Section 12, Rule 67, of the 1997 RCP, as amended, which shall be claimed in a Bill of Costs to be submitted to the Court for its evaluation and proper action thereto;

Third: -- For the defendants-DAR, as Expropriator, and Land Bank of the Philippines, jointly and severally, to pay plaintiff-[TOTCO] the reasonable attorney's fees, also to be taxed as part of the costs which should be claimed in a Bill of Costs to be submitted to the Court for its evaluation and proper action; and

Fourth: -- For the Defendant-DAR, as Expropriator, and Land Bank of the Philippines, jointly and severally, to pay the entire costs of the suit.[10] (Emphasis supplied.)

Since the valuation of the just compensation awarded by the RTC to TOTCO in its Decision dated 8 March 2000 included the standing crops and improvements introduced by AMS on the leased property, AMS President Alberto M. Soriano (Soriano) filed an Affidavit in (sic) Third Party Claim dated 19 May 2000 before the RTC in DAR Case No. 52-99. In his Affidavit, Soriano asserted that AMS was the owner of the standing crops and all the improvements inherent in the operation of a banana plantation on the land owned by TOTCO; that the RTC

Decision of 8 March 2000 in DAR Case No. 52-99 was null and void in so far as the standing crops and improvements were concerned since these were owned by AMS, although the land was owned and titled in the name of TOTCO; that the said Decision did not bind AMS for it was never a party in the case; that AMS was denied due process; and that the total valuation of the standing crops and improvements amounted to P54,453,576.54. In the end, Soriano requested the Deputy Sheriff and LBP not to deposit or pay in the name of TOTCO the portion of the just compensation awarded in DAR Case No. 52-99 which corresponded to the value of the standing crops and improvements.

On 6 June 2000, the RTC issued in DAR Case No. 52-99 an Order[11] granting the Motion filed by TOTCO for the immediate execution of its judgment, even before the expiration of the period to appeal, considering that the property of TOTCO was already acquired, distributed, and awarded by the DAR; subject, however, to Soriano's Affidavit of Third Party Claim.

Since the period to appeal the 8 March 2000 Decision of the RTC in DAR Case No. 52-99 lapsed without any appeal being taken therefrom, the said Decision eventually became final.

On 4 September 2000, the counsel for AMS wrote LBP a letter[12] calling its attention to the Third Party Claim of AMS on the award of just compensation to TOTCO in DAR Case No. 52-99. AMS requested that TOTCO be paid just compensation for the land only, and that the balance of the award be remitted by check to AMS. LBP, however, did not act on the request of AMS.

TOTCO subsequently filed a Motion to expunge Soriano's Affidavit from the records of DAR Case No. 52-99, but the RTC, after hearing, denied the said Motion in an Order[13] dated 26 September 2000, ruling therein that:

This Court painstakingly considers the arguments adduced in the Motion to expunge the Third Party Claim and the opposition thereto. There is no cogent reason to deprive the Third Party Claimant of his right to file an Affidavit of Third Party Claim. The Third Party Claimant should be given an opportunity to prove his claim in a trial where all issues are properly ventilated.

WHEREFORE, in view thereof, the motion to expunge the Affidavit in (sic) Third Party Claim of Alberto M. Soriano is hereby denied.[14]

Special Agrarian Case No. 61-2000

On 23 April 1999, TOTCO filed with the RTC its Complaint for just compensation, docketed as DAR Case No. 52-99.

Learning that the agricultural land it was leasing was already the subject of a pending VOS made by TOTCO, but apparently still unaware of the pendency of DAR Case No. 52-99, AMS wrote LBP a letter dated 22 November 1999 submitting its own VOS of the banana crops planted on the 61.65 hectares of land owned by TOTCO.

On 8 March 2000, the RTC promulgated its Decision in DAR Case No. 52-99 awarding just compensation to TOTCO for its land, as well as the standing crops and improvements found thereon. AMS did not receive a copy of the said Decision since it was not a party in DAR Case No. 52-99. AMS was merely furnished a copy thereof by the LBP Land Valuation Office in Davao City, when one of its employees followed up on the status of its VOS on 3 May 2000.

This prompted AMS President Soriano to file with the RTC, in DAR Case No. 52-99, an Affidavit in (sic) Third Party Claim dated 19 May 2000.

With the issuance of a writ of execution in DAR Case No. 52-99, AMS filed with the RTC, acting as a Special Agrarian Court, its own Petition[15] for determination of just compensation with application for a writ of

preliminary injunction and temporary restraining order, naming the DAR and/or LBP and TOTCO as respondents. The Petition was docketed as Special Agrarian Case No. 61-2000. In its Petition before the RTC, AMS essentially made the same allegations in Soriano's "Affidavit in (sic) Third Party Claim" filed in DAR Case No. 52-99; but added the contention that the implementation of the RTC Decision dated 8 March 2000 in said case would cause great and irreparable injury, would work injustice to AMS, and complicate, aggravate, and multiply the issues of the present case. AMS then sought from the RTC the following:

P R A Y E R

WHEREFORE, it is most respectfully prayed of this Honorable Court that an order BE ISSUED for fixing the true and real value of [AMS's] property consisting of standing crops and improvements based on the reasons aforesaid, and to appoint Commissioners forthwith to accomplish said purpose; and to order defendants Land Bank of the Philippines and Department of Agrarian Reform jointly and severally to pay [AMS] aside from just compensation as heretofore claimed, attorney[']s fees equivalent to 25% of the total claims and such other fees as may be required by law.

Pending final determination of this case, payments of court fees, docket fees and other fees relative to the filing of the instant petition be given first and prior lien on the amounts to be awarded as just compensation in this case; thus, [AMS] further pray[s] that the instant petition be received and admitted by the Court.

Immediately enjoining the defendants Land Bank of the Philippines from MAKING DEPOSIT/PAYMENT in favor of Totco Credit Corporation the amount corresponding to the valuation of standing crops and improvements as described in DAR Case No. 52-99; and for this purpose, petition prays for a temporary restraining order to restrain defendant Land Bank from making any deposit/payment in favor of Totco Credit Corporation; and for this purpose [AMS] offers a bond subject to the approval of this Honorable Court the sum of P309,224.17 representing the value of the standing crops and improvements;

After trial, making the injunction above-mentioned permanent and ordering defendants Land Bank of the Philippines and the Department of Agrarian Reform NOT TO DEPOSIT/PAY Totco Credit Corporation the amount intended for the standing crops and improvements to be determined during trial as above-mentioned and with such further orders that are just and equitable in the premises.[16]

In its Answer,[17] TOTCO denied that AMS was still the owner of the standing crops and improvements on its land. The 21 February 1986 Lease Agreement and the 8 August 1991 MOA were invalid for failure of AMS to comply with Section 6 of the CARL requiring all contracts of lease executed prior to the CARL be registered with the Register of Deeds within three months from the date of effectivity of the said law on 15 June 1988. Even assuming that the said contracts were valid, they were terminated by operation of law on 15 June 1988 when the property of TOTCO was placed under the coverage of the CARL. Still assuming that the contracts were valid, according to the very terms thereof, AMS, as the lessee, only had "the right but not the obligation" to remove the buildings, improvements, facilities, equipment, and machineries from the leased property upon the termination of the lease. Given that AMS did not exercise such right to remove and left the standing crops and improvements on the property of TOTCO, these were now owned by TOTCO. Hence, TOTCO prayed that the Petition of AMS be dismissed.

LBP also filed its Answer and an Amended Answer with Affirmative Defenses and Motion to Dismiss. LBP pointed out that the standing crops and improvements subject of Special Agrarian Case No. 61-2000 were the same as those in DAR Case No. 52-99. The just compensation for the standing crops and improvements was previously determined in the Decision dated 8 March 2000 of the RTC in DAR Case No. 52-99, and the said decision was already executed pursuant to the writ of execution issued by the same court. AMS should have asserted and proven its Third Party Claim in DAR Case No. 52-99. It could not bring another case for just

compensation without first nullifying the proceedings in DAR Case No. 52-99 for the second case shall be barred by prior judgment. AMS also could not claim that it was totally unaware that the agricultural land it was leasing from TOTCO was being placed under the CARP, because being in possession thereof, it presumably knew of the activities undertaken by DAR officials on the said property pursuant to the CARP, such as identification of the land and its beneficiaries. Moreover, the panel of Commissioners appointed by the RTC in DAR Case No. 52-99 also conducted several ocular inspections of the property. Even assuming that AMS had no knowledge of the proceedings in DAR Case No. 52-99, the said case was a real action and the decision rendered therein bound the property and the whole world. Finally, since the MOA dated 8 August 1991 renewing the lease was not registered, it was null and void under Section 6 of the CARL. Same as TOTCO, LBP prayed for the dismissal of the Petition of AMS in Special Agrarian Case No. 61-2000.

The DAR filed a Manifestation adopting the Amended Answer with Affirmative Defenses and Motion to Dismiss of LBP.

In its Reply, AMS argued that there was nothing in Section 6 of the CARL which rendered null and void a lease which had been in existence prior to the effectivity of said law. AMS began leasing the agricultural land as early as 21 September 1970 and had only been renewing its lease. TOTCO was regularly billing AMS for the rentals on the leased property even after the effectivity of the CARL, and AMS religiously paid the same until 1998 or 1999. TOTCO knew who was the real owner of the standing crops and improvements on its land, but it only wanted to unjustly enrich itself by accepting the compensation for something it did not work for, produce, or introduce on its property.

On 10 January 2001, the RTC appointed a panel of Commissioners to determine the value of just compensation for the standing crops and improvements claimed by AMS. Incidentally, the composition of the panel was exactly the same as that in DAR Case No. 52-99. The panel of Commissioners submitted its Appraisal Report to the RTC on 21 August 2001. In its Report, the panel determined the total actual market value of all existing improvements introduced by AMS on the land owned by TOTCO to be P48,952,473.28, computed as follows:

This Commission hereby arrived at a total of P48,952,473.28 for all the existing improvements introduced by Petitioner under DAR Case No. 61-2000, illustrated below:

- Standing Crops..... P41,844,919.44
(P862,504.42 X 48.5156 hectares)

- Machineries..... P7,107,553.84

- Cableways, roads and
Canals..... P4,342,164.64
(P89,500.38 X 48.5156 has.)

- Aerial Propping..... P2,765,389.20
(P57,000.00 X 48.5156 has.)[18]

After the conduct of hearings and the formal offer of evidence by the parties, Special Agrarian Case No. 61-2000 was submitted for decision. The RTC promulgated its Decision on 11 March 2003, ruling in favor of AMS. In essence, the RTC found that the standing crops and improvements were indeed owned by AMS. There was no basis for LBP to pay TOTCO just compensation for the said standing crops and improvements, and the recovery of the value thereof already paid to TOTCO shall be the responsibility of the DAR and LBP. AMS had the right to just compensation, equivalent to the market value of its standing crops and improvements, as determined by the panel of Commissioners. The RTC, thus, adjudged:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the petitioner AMS Farming Corporation, as follows:

First. - The fair, just and reasonable compensation of various improvements consisting of standing banana crops, cableways, road networks and canals and aerial proppings, introduced and owned by petitioner - AMS Farming Corporation, on the 48.5156 hectares of land owned by Respondent-Totco Credit Corporation is hereby determined and fixed at FORTY EIGHT MILLION NINE HUNDRED FIFTY TWO THOUSAND FOUR HUNDRED SEVENTY THREE & 28/100 (P48,952,473.28) PESOS, Philippine Currency, and in order to make such fixed and computed amount of just compensation truly just as the same should have been paid to [AMS] at the time of the acquisition of the land, on which they exist, by the Respondents-DAR and LBP on November 24, 1997 which is the date the title of the land had been transferred in the name of the Republic of the Philippines, a properly-computed adjustment to make such valuation of just compensation at par with the current true value of the Philippine Peso vis-à-vis the U.S. Dollar be added to said determined and fixed amount supra; plus legal interest thereon pegged at 12% per annum computed from the date of acquisition of the land as hereinabove indicated until full payment to [AMS] is made or deposited in the Court, the totality of which the Respondent-Department of Agrarian Reform, thru the Respondent-Land Bank of the Philippines, are hereby ordered to pay, jointly and severally to [AMS] hereof;

Second. - Hereby ordering the Respondent-Department of Agrarian Reform, through the Respondent-Land bank (sic) of the Philippines, to pay jointly and severally, all fees and expenses payable to the Court-appointed Commissioners which shall be taxed as part of the costs as expressly mandated under Section 12, of Rule 67, of the 1997 Rules of Civil Procedure, as amended, to be claimed by [AMS] in a Bill of Costs to be submitted for consideration and action by the Court;

Third. - Hereby ordering the Respondent-Department of Agrarian Reform, through the Respondent-Land Bank of the Philippines, to pay jointly and severally, to [AMS] the attorney's fees equivalent to Ten (10%) percent of the total amount herein fixed as just compensation and interests, including the re-computed readjustment amount added thereto, likewise to be claimed in a Bill of Costs which [AMS] shall submit for the proper consideration and action by this Court;

Fourth. - Except for the above, no further pronouncement as to costs.[19]

The RTC denied the Motion for Reconsideration of LBP in an Order dated 25 April 2003.

LBP subsequently appealed the judgment of the RTC in Special Agrarian Case No. 61-2000 to the Court of Appeals, where it was docketed as CA-G.R. SP No. 77520. It turned out that the DAR also appealed the same judgment to the Court of Appeals, which was assigned the docket number CA-G.R. SP No. 76724.

In the meantime, during the pendency of CA-G.R. SP No. 77520 before the Court of Appeals, AMS filed with the RTC, in Special Agrarian Case No. 61-2000, a Motion for Execution Pending Appeal and its Bill of Costs. In its Order dated 26 June 2003, the RTC granted execution of its Decision dated 11 March 2003 even pending appeal thereof. The writ of execution was issued in Special Agrarian Case No. 61-2000 on 18 July 2003 and served on LBP on 24 July 2003. AMS then moved for the issuance of a writ of levy and attachment, which was again granted by the RTC in an Order dated 11 August 2003. Several real properties of LBP were levied upon and sold at a public auction held on 29 September 2003 in favor of AMS, for its bid of P100,922,861.43.

After the parties submitted the necessary pleadings, the Court of Appeals rendered its Decision in CA-G.R. SP No. 77520 on 28 March 2006, dismissing the appeal of LBP.

The Court of Appeals upheld the validity of the MOA dated 8 August 1991 and by virtue thereof, declared AMS as the owner of the standing crops and improvements it introduced on the leased property. The MOA was not rendered inoperative by the last paragraph of Section 6 of the CARL. Section 6 speaks of retention limits, and the

last paragraph thereof cannot be construed separately from the preceding paragraphs. The lease or transfer of possession of private agricultural lands should be deemed null and void only if they violate the provisions of the CARL on retention limits. The last paragraph of Section 6 itself recognizes the validity of a lease agreement already in existence prior to the CARL, provided that it had been registered within three months from the effectivity of the said law. Section 72(a) of the CARL likewise acknowledges the validity and continuity of a lease agreement after the effectivity of the said law, and even after the agricultural land had already been distributed to qualified beneficiaries.

Considering that the proceedings in DAR Case No. 52-99 were more quasi in rem than in rem, and AMS was excluded therefrom, the Court of Appeals ruled that the judgment of the RTC in said case should not bind AMS. Also taking into account that the same judgment already attained finality, the appellate court pronounced that it would only be a formality for AMS to still pursue its VOS before the DAR.

The Court of Appeals further found that the appeal of LBP was dismissible on technical grounds. According to the appellate court, LBP violated the rule on non-forum shopping for failing to inform it of the pendency of CA-G.R. SP No. 76724. In addition, LBP was not the real party-in-interest, being only the depository of the Agrarian Reform Fund and the financial intermediary for purposes of the CARL. For the same reason, LBP could not institute CA-G.R. SP No. 77520 without the concurrence of the Republic of the Philippines, through the Office of the Solicitor General (OSG). The Agrarian Reform Fund belonged to the Republic and it is the one which stood to be injured by execution against the said fund.

The Court of Appeals finally decreed:

FOR THESE REASONS, the petition is DISMISSED for lack of merit.

Costs against [LBP].[20]

Acting on the Motion for Reconsideration of the LBP, the Court of Appeals issued a Resolution dated 26 September 2006. In said Resolution, the appellate court did not give much credence to the argument of LBP that AMS used the wrong mode in seeking payment for its standing crops and improvements on the leased property. It took note that LBP did not bother to appeal the RTC Decision dated 8 March 2000 in DAR Case No. 52-99, awarding just compensation to TOTCO for the land, as well as the standing crops and improvements thereon. The bad faith of LBP was displayed when it resisted and totally ignored the valid claim of AMS over the standing crops and improvements. It took LBP to task for proceeding to fully pay TOTCO the award of just compensation in DAR Case No. 52-99 despite the Third Party Claim of AMS. As a result, the Court of Appeals refused to reconsider its earlier Decision.

LBP is presently before this Court via this Petition for Review on Certiorari, raising the following issues:

A

WHETHER OR NOT THE APPELLATE COURT GRAVELY ERRED IN SUSTAINING THE [RTC'S] DECISION AWARDING JUST COMPENSATION IN FAVOR OF AMS FARMS ([SPECIAL AGRARIAN] CASE NO. 61-2000) FOR THE IMPROVEMENTS INTRODUCED ON THE LANDHOLDINGS AFTER IT EARLIER AWARDED JUST COMPENSATION TO TOTCO (DAR CASE NO. 52-99) FOR THE SAME IMPROVEMENTS.

B

WHETHER OR NOT THE APPELLATE COURT GRAVELY ERRED IN RULING THAT [AMS'S] INTEREST OVER THE IMPROVEMENTS (CAVENDISH BANANA) INTRODUCED ON THE LANDHOLDING OF TOTCO CANNOT BE PREJUDICED BY THE DECISION RENDERED BY THE

[RTC] IN THE CASE ENTITLED TOTCO VS. DAR/LBP, DAR CASE NO. 52-99 FOR JUST COMPENSATION.

C

WHETHER OR NOT THE APPELLATE COURT GRAVELY ERRED IN THE INTERPRETATION AND APPLICATION OF SEC. 6 IN RELATION TO SEC. 73, RA 6657 BY SUSTAINING THE VALIDITY OF THE MEMORANDUM OF AGREEMENT EXECUTED ON 8 AUGUST 1991 AFTER THE EFFECTIVITY OF THE ACT.

D

WHETHER OR NOT THE APPELLATE COURT GRAVELY ERRED WHEN IT RULED THAT THE VOLUNTARY OFFER TO SELL (VOS) IS NOT REQUIRED SINCE IT WOULD BE AN EXERCISE IN FUTILITY.

E

WHETHER OR NOT THE APPELLATE COURT GRAVELY ERRED (A) IN DECLARING THAT LBP IS NOT THE REAL PARTY-IN-INTEREST AND, (B) IT VIOLATED THE RULE ON FORUM SHIPPING (sic) BECAUSE OF THE PENDENCY OF THE CASE ENTITLED DAR VS. AMS FARMING, (sic) CORPORATION, CA-G.R. SP NO. 76724, COURT OF APPEALS.

F

WHETHER OR NOT THE APPELLATE COURT GRAVELY ERRED IN NOT RESOLVING THE ISSUE ON THE [RTC] GRANTING THE FOLLOWING AWARDS, TO WIT:

- PESO-DOLLAR RATE ADJUSTMENT;
- INTEREST RATE OF TWELVE (12%) PER ANNUM RECKONED FROM NOVEMBER 24, 1997 (DATE OF ISSUANCE OF TITLE IN THE NAME OF THE REPUBLIC CANCELING TITLE OF TOTCO CREDIT CORP.);
- ATTORNEY'S FEE EQUIVALENT TO 10% OF THE JUDGMENT, INTEREST PLUS PESO-DOLLAR RATE READJUSTMENT.

II

The Ruling of this Court

The Court shall first address the procedural and/or technical issues before proceeding to the substantive issues raised by LBP.

A. Procedural/technical issues

The LBP is a real party-in-interest which could file its own appeal, represented by its Legal Department as the collaborating counsel of the Government Corporate Counsel.

The Court of Appeals was indeed in error for denying LBP its right to file an appeal on the ground that it was not a real party-in-interest, since it did not stand to lose or gain anything from the RTC Decision dated 11 March 2003 in Special Agrarian Case No. 61-2000. It is worthy to note that in making its pronouncement that LBP was a mere depository of the Agrarian Reform Fund and the financial intermediary for purposes of the CARL, the appellate court was unable to cite any statutory or jurisprudential basis therefor.

To the contrary, the Court had already recognized in *Sharp International Marketing v. Court of Appeals*[21]

that the LBP plays a significant role under the CARL and in the implementation of the CARP, thus:

As may be gleaned very clearly from EO 229, the LBP is an essential part of the government sector with regard to the payment of compensation to the landowner. It is, after all, the instrumentality that is charged with the disbursement of public funds for purposes of agrarian reform. It is therefore part, an indispensable cog, in the governmental machinery that fixes and determines the amount compensable to the landowner. Were LBP to be excluded from that intricate, if not sensitive, function of establishing the compensable amount, there would be no amount "to be established by the government" as required in Sec. 6, EO 229. This is precisely why the law requires the [Deed of Absolute Sale (DAS)], even if already approved and signed by the DAR Secretary, to be transmitted still to the LBP for its review, evaluation and approval.

It needs no exceptional intelligence to understand the implications of this transmittal. It simply means that if LBP agrees on the amount stated in the DAS, after its review and evaluation, it becomes its duty to sign the deed. But not until then. For, it is only in that event that the amount to be compensated shall have been "established" according to law. Inversely, if the LBP, after review and evaluation, refuses to sign, it is because as a party to the contract it does not give its consent thereto. This necessarily implies the exercise of judgment on the part of LBP, which is not supposed to be a mere rubber stamp in the exercise. Obviously, were it not so, LBP could not have been made a distinct member of [Presidential Agrarian Reform Council (PARC)], the super body responsible for the successful implementation of the CARP. Neither would it have been given the power to review and evaluate the DAS already signed by the DAR Secretary. If the function of the LBP in this regard is merely to sign the DAS without the concomitant power of review and evaluation, its duty to "review/evaluate" mandated in Adm. Order No. 5 would have been a mere surplusage, meaningless, and a useless ceremony.

x x x x

Even more explicit is R.A. 6657 with respect to the indispensable role of LBP in the determination of the amount to be compensated to the landowner. Under Sec. 18 thereof, "the LBP shall compensate the landowner in such amount as may be agreed upon by the landowner and the DAR and LBP, in accordance with the criteria provided in Secs. 16 and 17, and other pertinent provisions hereof, or as may be finally determined by the court, as the just compensation for the land."

Without the signature of the LBP President, there was simply no contract between Sharp and the Government. The Deed of Absolute Sale dated January 9, 1989, was incomplete and therefore had no binding effect at all. Consequently, Sharp cannot claim any legal right thereunder that it can validly assert in a petition for mandamus. (Emphasis supplied.)

The issue of whether LBP can file an appeal on its own, separately and independently of the DAR, in land valuation and just compensation cases, had been squarely addressed by the Court in *Gabatin v. Land Bank of the Philippines*,^[22] where it ruled:

It must be observed that once an expropriation proceeding for the acquisition of private agricultural lands is commenced by the DAR, the indispensable role of Land Bank begins.

Even in the preliminary stage of the valuation and the determination of just compensation, the respondent's task is inseparably interwoven with that of the DAR, thus:

. . . under the law, the Land Bank of the Philippines is charged with the initial responsibility of determining the value of lands placed under agrarian reform and compensation to be paid for their taking (Section 1, E.O. 405). Through the notice sent to the landowner pursuant to §16(a) of R.A. No. 6657, the DAR makes an offer. In case the landowner rejects the offer, a summary administrative proceeding is held and afterward, the provincial (PARAD), the regional (RARAD) or the central (DARAB) adjudicator as the case maybe, depending on the value of the land, fixes the price to be paid for the land. If the landowner does not agree to the price fixed, he may bring the matter to the RTC acting as Special Agrarian Court.

E.O. No. 405 provides that the DAR is required to make use of the determination of the land valuation and compensation by the Land Bank as the latter is primarily responsible for the determination of the land valuation and compensation for all private lands under Rep. Act No. 6657.

In *Sharp International Marketing v. Court of Appeals*, this Court even went on to say that without the Land Bank, there would be no amount to be established by the government for the payment of just compensation, thus:

x x x x

More telling is the fact that Land Bank can disagree with the decision of the DAR in the determination of just compensation, and bring the matter to the RTC designated as a [Special Agrarian Court] for final determination of just compensation.

The foregoing clearly shows that there would never be a judicial determination of just compensation absent respondent Land Bank's participation. Logically, it follows that respondent is an indispensable party in an action for the determination of just compensation in cases arising from agrarian reform program.

Assuming arguendo that respondent is not an indispensable party but only a necessary party as is being imposed upon us by the petitioners, we find the argument of the petitioners that only indispensable parties can appeal to be incorrect.

There is nothing in the Rules of Court that prohibits a party in an action before the lower court to make an appeal merely on the ground that he is not an indispensable party. The Rules of Court does not distinguish whether the appellant is an indispensable party or not. To avail of the remedy, the only requirement is that the person appealing must have a present interest in the subject matter of the litigation and must be aggrieved or prejudiced by the judgment. A party, in turn, is deemed aggrieved or prejudiced when his interest, recognized by law in the subject matter of the lawsuit, is injuriously affected by the judgment, order or decree. The fact that a person is made a party to a case before the lower court, and eventually be made liable if the judgment be against him, necessarily entitles him to exercise his right to appeal. To prohibit such party to appeal is nothing less than an outright violation of the rules on fair play. (Emphasis supplied.)

It is evident from the afore-quoted jurisprudence that the role of LBP in the CARP is more than just the ministerial duty of keeping and disbursing the Agrarian Reform Funds. As the Court had previously declared, the LBP is primarily responsible for the valuation and determination of compensation for all private lands. It has the discretion to approve or reject the land valuation and just compensation for a private agricultural land placed under the CARP. In case the LBP disagrees with the valuation of land and determination of just compensation by a party, the DAR, or even the courts, the LBP not only has the right, but the duty, to challenge the same, by appeal to the Court of Appeals or to this Court, if appropriate. Moreover, the fact that the LBP was impleaded as a party in Special Agrarian Case No. 61-2000 before the RTC, and made liable under the Decision dated 11 March 2003 in said case, necessarily entitled it to exercise its right to appeal therefrom, and to prohibit the same "is nothing less than an outright violation of the rules on fair play."

The Court likewise cannot sustain the ruling of the Court of Appeals that LBP needed to secure first the concurrence of the Republic and to be represented only by the OSG in its appeal.

The Court has already settled in the preceding paragraphs that the LBP could file the appeal in CA-G.R. SP No. 77520 on its own behalf and in the protection of its own interest.

Furthermore, LBP is a government-owned and controlled corporation (GOCC).[23] Book IV, Title III, Chapter 3, Section 10 of Executive Order No. 292, otherwise known as the Administrative Code of 1987, provides that the

Office of the Government Corporate Counsel (OGCC) shall act as the principal law office of all GOCCs, their subsidiaries, other corporate off-springs, and government acquired asset corporations. Administrative Order No. 130, issued by the Office of the President on 19 May 1994, delineating the functions and responsibilities of the OSG and the OGCC, clarifies that all legal matters pertaining to GOCCs, their subsidiaries, other corporate offsprings, and government acquired asset corporations shall be exclusively referred to and handled by the OGCC, unless their respective charters expressly name the OSG as their legal counsel. Nonetheless, the GOCC may hire the services of a private counsel in exceptional cases with the written conformity and acquiescence of the Government Corporate Counsel, and with the concurrence of the Commission on Audit (COA).[24]

The Government Corporate Counsel, in its letter of authority,[25] had given its conformity and acquiescence for the LBP Legal Department to appear as its collaborating counsel in all LBP cases, including the present case. And there was no need for the concurrence of the COA since the LBP was being represented by its own Legal Department and was not incurring additional cost for the said legal services. The authority of the LBP Legal Department herein to represent the bank in its appeal before the Court of Appeals and this Court is, thus, indisputable.

The LBP did not commit forum shopping.

It cannot also be said that the LBP violated the proscription on forum shopping for failing to inform the Court of Appeals in CA-G.R. SP No. 77520 of the pendency of the appeal of DAR in CA-G.R. SP No. 76724 before the same court.

Forum shopping is manifest whenever a party "repetitively avail[s] of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely by, some other court." It has also been defined as "an act of a party against whom an adverse judgment has been rendered in one forum of seeking and possibly getting a favorable opinion in another forum, other than by appeal or the special civil action of certiorari, or the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition." Considered a pernicious evil, it adversely affects the efficient administration of justice since it clogs the court dockets, unduly burdens the financial and human resources of the judiciary, and trifles with and mocks judicial processes.[26]

There is forum shopping when, in the two or more cases pending, there is identity of parties, rights or causes of action and relief sought. Forum shopping exists where the elements of *litis pendentia* are present or when a final judgment in one case will amount to *res judicata* in the other. For *litis pendentia* to exist, the following requisites must be present:

- Identity of parties, or at least such parties as those representing the same interests in both actions;
- Identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts;
- Identity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.[27]

While it may be true that CA-G.R. SP No. 77520 and CA-G.R. SP No. 76724 were both appeals of the 11 March 2003 Decision of the RTC in Special Agrarian Case No. 61-2000, the former was interposed by the LBP while the latter was filed by the DAR. Obviously, the DAR and the LBP are not the same parties. Neither can it be easily presumed that they represent the same interests in their appeals. It should be remembered that the LBP, in land valuation and just compensation cases, exercises authority and discretion separate and independent of the DAR,

and may even disagree with and take a position contrary to that of the DAR. That the LBP and the DAR, in this instance, both assert in their respective appeal that AMS has no right to just compensation, can be said to be merely coincidental and may not be true at all times; hence, it does not merge their personalities and their interests, as to compel them to appeal together.

Was the LBP under the obligation to inform the Court of Appeals in CA-G.R. SP No. 77520 that the DAR filed its own appeal in CA-G.R. SP No. 76724? Given the circumstances obtaining in this case, the Court answers in the negative. Again, it must be emphasized that although both the DAR and the LBP are government agencies/instrumentalities responsible for the implementation of the CARP, each is a distinct and independent entity, acting in accordance with its own mandate and functions. It has not been sufficiently shown that the LBP was privy to the choice of the DAR to also file an appeal of the RTC Decision dated 11 March 2003 in Special Agrarian Case No. 61-2000. The LBP was not impleaded in CA-G.R. SP No. 76724 and was not receiving notices in said case. The LBP and the DAR were not sharing the same counsel given that the LBP was being represented in CA-G.R. SP No. 77520 by its own Legal Department. The burden of proving that LBP actually knew of CA-G.R. SP No. 76724, yet still failed to properly notify the Court of Appeals, fall on AMS, and the same cannot be assumed just because DAR and LBP are both government agencies/instrumentalities.

The situation of the DAR and LBP should not be treated differently from other cases wherein multiple parties from the proceedings in the court a quo each filed their own appeals. If brought in time to the attention of the appellate court, the multiple appeals may be consolidated; but non-consolidation should not result in the dismissal of the appeals on the ground of forum shopping unless it has been substantially established that they were intentionally resorted to by the appealing parties in order to "shop around" for a favorable decision. The rule prohibiting forum-shopping was designed to promote and facilitate the orderly administration of justice. It should not be interpreted with such absolute literalness as to defeat its ultimate objective which is to achieve substantial justice as expeditiously as possible.[28]

B. Substantive issues

The CARL does not absolutely prohibit lease agreements involving private agricultural lands.

The contentious provision of the CARL is Section 6 thereof which reads in full:

SEC. 6. Retention Limits. - Except as otherwise provided in this Act, no person may own or retain, directly or indirectly, any public or private agricultural land, the size of which shall vary according to factors governing a viable family-sized farm, such as commodity produced, terrain, infrastructure, and soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder, but in no case shall retention by the landowner exceed five (5) hectares. Three (3) hectares may be awarded to each child of the landowner, subject to the following qualifications: (1) that he is at least fifteen (15) years of age; and (2) that he is actually tilling the land or directly managing the farm: Provided, That the landowners whose lands have been covered by Presidential Decree No. 27 shall be allowed to keep the area originally retained by them thereunder; Provided, further, That original homestead grantees or their direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead.

The right to choose the area to be retained, which shall be compact or contiguous, shall pertain to the landowner; Provided however, That in case the area selected for retention by the landowner is tenanted, the tenant shall have the option to choose whether to remain therein or be a beneficiary in the same or another agricultural land with similar or comparable features. In case the tenant chooses to remain in the retained area, he shall be considered a leaseholder and shall lose his right to be a beneficiary under this Act. In case the tenant chooses to be a beneficiary in another agricultural land, he loses his right as a leaseholder to the land

retained by the landowner. The tenant must exercise this option within a period of one (1) year from the time the landowner manifests his choice of the area for retention.

In all cases, the security of tenure of the farmers or farmworkers on the land prior to the approval of this Act shall be respected.

Upon the effectivity of this Act, any sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner in violation of this Act shall be null and void: Provided, however, That those executed prior to this Act shall be valid only when registered with the Register of Deeds within a period of three (3) months after the effectivity of this Act. Thereafter, all Register of Deeds shall inform the DAR within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares. (Emphasis ours.)

There is nothing in the last paragraph of the afore-quoted provision which would relay the intention of the Legislature to absolutely prohibit lease agreements after the effectivity of the CARL.

It is a rule in statutory construction that every part of the statute must be interpreted with reference to the context, i.e., that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment.[29] Section 6 of the CARL specifically governs retention limits, and the last paragraph thereof must be interpreted or construed in accordance with the context of said section. Simply, what the last paragraph of Section 6 of the CARL considers null and void are lease agreements or any other contract involving private lands executed with the intention of circumventing and violating the retention limits set by the CARL. Consistent therewith, Section 73(a) of the same law expressly prohibits the ownership or possession of agricultural lands in excess of the total retention limits or award ceilings by any person, natural or juridical, except those under collective ownership by farmer-beneficiaries.

The Court is not persuaded that the MOA dated 8 August 1991 between TOTCO and AMS was null and void because it was executed with the intention of violating the provisions of the CARL, particularly, on retention limits. The MOA renewed a lease arrangement over the piece of agricultural land that had been existence since 1970, nearly two decades before the CARL. It is more reasonable to assume that the parties decided to maintain the lease because it proved to be a convenient and profitable arrangement for them, rather than that they intended to deceive the government as to the true size of landholding of the lessee TOTCO.

The Memorandum of Agreement dated 8 August 1991, not being registered, is valid and binding only upon the parties thereto, but not on third persons such as LBP.

To recall, the Lease Agreement between APECO (the predecessor-in-interest of TOTCO) and AMS was executed on 21 February 1986, prior to the effectivity of the CARL. The lease shall be for a period of 10 years, commencing on 1 November 1985 and expiring on 31 October 1995. The Lease Agreement was registered with the Registry of Deeds and accordingly annotated on the certificate of title of APECO.

The CARL took effect on 15 June 1988. The last paragraph of Section 6 thereof states that all contracts of sale, disposition, lease, management contract, or transfer of possession of private lands executed prior to the CARL shall be valid only when registered with the Register of Deeds within a period of three months from the effectivity of the said Act. Since the 21 February 1986 Lease Agreement was already registered prior to the CARL, there was no more need for it to be registered again within three months from the effectivity of the said law, as required by the last paragraph of Section 6 thereof, for such would only be redundant. Having complied with the registration requirement, the Lease Agreement remained valid even after the effectivity of the CARL.

On 8 August 1991, TOTCO and AMS executed the MOA increasing the area leased and extending the lease for 25 years, beginning 1 November 1991 and ending on 31 October 2016. The MOA was not registered.

The non-registration of the 8 August 1991 MOA did not render the same null and void. There is no provision in the CARL to such effect. While the last paragraph of Section 6 of the said law does require as a condition for validity the registration of any contract involving private land, it applies only to contracts "executed prior to this Act."

The consequence of the non-registration of the 8 August 1991 MOA is clearly set forth in Article 1648 of the Civil Code, which states that, "Every lease of real estate may be recorded in the Registry of Property. Unless a lease is recorded, it shall not be binding on third persons." The same principle is adopted by Section 51 of Presidential Decree No. 1529, otherwise known as the Land Registration Decree, which provides that no deed, mortgage, lease or other voluntary instrument - except a will - purporting to convey or affect registered land shall take effect as a conveyance or bind the land until its registration. Thus, if the lease of a piece of land covered by a certificate of title is not registered, it is binding only between the lessor and the lessee but it does not affect innocent third persons.[30]

In the present case, TOTCO submitted the VOS of its agricultural property to the DAR on 9 September 1996. When LBP began its valuation of said property pursuant to the CARP, the certificate of title covering the same in the name of TOTCO only bore the annotation of the Lease Agreement dated 21 February 1986, which had already expired on 31 October 1995.

AMS argues that DAR and LBP should have known of the extension of the lease contract between AMS and TOTCO considering that AMS remained in possession of the land being placed under the CARP. The DAR officials who conducted ocular visits of the property could not have missed this fact.

The Court is not convinced. Such an argument hardly constitutes solid basis for ruling against LBP, especially in view of its counter-charge that AMS should have been alerted to the CARP proceedings involving the leased property given the numerous visits and activities conducted by DAR officials thereon, as well as by the panel of Commissioners appointed by the RTC in DAR Case No. 52-99. It is hardly believable that AMS remained in total ignorance of the CARP proceedings involving the leased property until it received on 3 May 2000 a copy of the RTC Decision in DAR Case No. 52-99 dated 8 March 2000.

It would seem that the ocular visits conducted by DAR officials on the property of TOTCO are double-edged, working to the disadvantage of all the parties and highlighting a lack of diligence on all sides - with DAR and LBP, on one hand, and AMS, on the other - failing to take notice of each other's presence on the leased property and acting promptly and accordingly therefrom.

The Court also notes that even the panel of Commissioners appointed by the RTC in DAR Case No. 52-99, which also inspected the property of TOTCO, had likewise overlooked the possession thereof by AMS and, resultantly, failed to discover as early as then that the lease agreement between TOTCO and AMS was extended.

Perhaps the problem lies with paragraph 6 of the Lease Agreement of 21 February 1986, which provided that:

- he LESSEE shall devote the leased property to production of bananas and other crops, other than rice and corn or other crops that will place under or subject the land under land reform, and shall have the right to build and construct thereon such buildings, dwelling and farm houses, roadways and waterways, improvements and facilities of whatever nature, and place thereon such equipment and machineries as it may deem necessary or expedient in its agricultural operations, and the right but not the obligation to remove during the leased period or any extension thereof, or after the expiration of the lease, any such buildings, improvements, facilities, equipment and machineries upon the termination of this lease. No liability of any nature shall accrue to the LESSEE by reason of its construction use or removal of these buildings, roadways, waterways, improvements, facilities, equipment and machineries, provided such constructions or structures, use or removal shall not cause

substantial damage to the leased property. However, subject to an agreement, the LESSOR may purchase the physical movable improvements such as buildings, shade, staff houses, laborers' quarters, and other similar permanent improvements upon the expiration of the contract.[31]

Based on the foregoing paragraph, the standing crops and improvements made by AMS on the property of TOTCO shall remain thereon, even after the expiration of the lease, should AMS not exercise its right to remove the same. It would, therefore, not be odd for third persons to still find the standing crops and improvements of a banana plantation on the property of TOTCO, even when the latter's lease agreement with AMS should have already expired. There were no sufficient circumstances to put third persons on guard or lead them to presume that the lease between TOTCO and AMS was extended beyond the expiration of the 21 February 1986 Lease Agreement.

The Court of Appeals belittles the effect of non-registration of the MOA dated 8 August 1991 by reasoning that it merely extended the original Lease Agreement dated 21 February 1986. Since the principal agreement (the Lease Agreement) was registered, there was no more need to register the accessory contract (the MOA).

The ratiocination of the appellate court on this matter, adopted by AMS, is appallingly specious.

The 8 August 1991 MOA was not a mere accessory of the 25 February 1986 Lease Agreement; it was a brand new contract. It substantially digressed from the terms of the Lease Agreement, leasing an expanded area and providing for a lease period of 25 years beginning 1 November 1991 and ending 31 October 2016. That the MOA made the Lease Agreement an integral part thereof did not make the former an accessory of the latter. It only did away, as a matter of convenience, of having to reiterate in the MOA the provisions in the Lease Agreement which the parties still intended to observe.

Since it was the MOA dated 8 August 1991 which, in effect, adopted or absorbed the Lease Agreement dated 21 February 1986, it was the registration of the former rather than the latter which became essential. The registration and annotation of the MOA on the certificate of title of TOTCO would constitute sufficient notice to third parties of the existence of the two lease contracts, because the MOA explicitly referred to the Lease Agreement as an integral part thereof. In contrast, it could not be reasonably expected that third parties were alerted to the existence of the MOA by the registration and annotation of the Lease Agreement alone on the certificate of title of TOTCO, for the latter contract makes no mention at all of the MOA or, more importantly, of the expanded area leased and the longer period of lease thereunder.

The Court, therefore, finds that the MOA dated 8 August 1991, not being registered, binds only the parties thereto, namely, TOTCO and AMS. But as far as LBP, a third party, was concerned, the registered Lease Agreement of 21 February 1986 had expired on 31 October 1995, and the private agricultural land and all the standing crops and improvements thereon were owned by TOTCO. Absent the registration of the MOA, AMS cannot compel LBP to recognize the same and be bound by its terms.

The recourse of AMS is not to seek just compensation from LBP under the CARL, but to recover from TOTCO under the Civil Code.

From the very beginning, the RTC and the Court of Appeals erred in resolving the claim of AMS under the CARL, rather than the Civil Code. The said courts proceeded from the mistaken presumption that AMS had a right to just compensation under the CARL for the standing crops and improvements it introduced as a lessee on the agricultural land of TOTCO. The RTC should have dismissed the Petition of AMS in Special Agrarian Case No. 61-2000 for lack of cause of action; it was clearly not an agrarian matter.

There is no question that the landowner is entitled to just compensation for its private agricultural land taken

pursuant to the CARP for distribution to qualified beneficiaries. However, even after an exhaustive scrutiny of the CARL, the Court could not find a provision therein on the right of a lessee of a private agricultural land to just compensation for the crops it planted and improvements it built thereon, which could be recognized separately and distinctly from the right of the landowner to just compensation for his land. The standing crops and improvements are valued simply because they are appurtenant to the land, and must necessarily be included in the final determination of the just compensation for the land to be paid to the landowner. Standing crops and improvements, if they do not come with the land, are totally inconsequential for CARP purposes.

The only express provision in the CARL directly concerning the right of a lessee of a private agricultural land placed under the CARP is Section 72(a) thereof, which states:

Section 72. Leases, Management, Grower or Service Contracts, Mortgages and Other Claims. - Lands covered by this Act under lease, management, grower or service contracts, and the like shall be disposed of as follows:
a) Lease, management, grower or service contracts covering private lands may continue under their original terms and conditions until the expiration of the same even if such land has, in the meantime, been transferred to qualified beneficiaries.

But this Court must still qualify that the lessee can only avail itself of the afore-mentioned right to continue the lease contract under its original terms and conditions until the expiration of the same, and even after the distribution of the land to the qualified beneficiaries, if the said lease contract was duly registered; because only when it is registered, will the lease contract be binding on third parties, such as the CARP beneficiaries.

Other than Section 72(a) thereof, the CARL does not specially govern lease contracts of private agricultural lands. So that for the determination of the rights of AMS as a lessee in a lease contract terminated by the sale of the leased property to a third person (regardless of the fact that the third person was the Republic and the sale was made pursuant to the CARP), the Court resorts to the general provisions of the Civil Code on lease contracts; and not the CARL.

Relevant articles of the Civil Code reads:

ART. 1654. The lessor is obliged:

- (1) To deliver the thing which is the object of the contract in such a condition as to render it fit for the use intended;
- (2) To make on the same during the lease all the necessary repairs in order to keep it suitable for the use to which it has been devoted, unless there is a stipulation to the contrary;
- (3) To maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract.

ART. 1659. If the lessor or the lessee should not comply with the obligations set forth in articles 1654 and 1657, the aggrieved party may ask for the rescission of the contract and indemnification for damages, or only the latter, allowing the contract to remain in force.

ART. 1676. The purchaser of a piece of land which is under a lease that is not recorded in the Registry of Property may terminate the lease, save when there is a stipulation to the contrary in the contract of sale, or when the purchaser knows of the existence of the lease.

If the buyer makes use of the right, the lessee may demand that he be allowed to gather the fruits of the harvest which corresponds to the current agricultural year and that the vendor indemnify him for damages suffered.

If the sale is fictitious, for the purpose of extinguishing the lease, the supposed vendee cannot make use of the

right granted in the first paragraph of this article. The sale is presumed to be fictitious if at the time the supposed vendee demands the termination of the lease, the sale is not recorded in the Registry of Property. (Emphasis ours.)

It is clear that under the Civil Code, the recourse of AMS as a lessee is against its lessor, TOTCO. Since TOTCO was unable to comply with its obligation to keep AMS in peaceful and adequate enjoyment of the leased property for the entire duration of the lease agreed upon in the MOA dated 8 August 1991, then AMS could rescind the MOA (which, as the Court declared herein, is still binding between TOTCO and AMS, but already incapable of execution considering the acquisition of the property by the Republic under the CARP) and seek indemnification for damages. In addition, AMS, as the lessee under an unregistered contract of lease, also had the right to demand that it be allowed to gather the fruits of the harvest corresponding to the agricultural year the leased property was actually acquired by the Republic under the CARP and that it again be indemnified by TOTCO as the vendor of the property for the damages suffered.

A lessee who made improvements on the leased property is further granted the following rights by the Civil Code upon the termination of the lease for any reason:

ART. 1678. If the lessee makes, in good faith, useful improvements which are suitable to the use for which the lease is intended, without altering the form or substance of the property leased, the lessor upon the termination of the lease shall pay the lessee one-half of the value of the improvements at that time. Should the lessor refuse to reimburse said amount, the lessee may remove the improvements, even though the principal thing may suffer damage thereby. He shall not, however, cause any more impairment upon the property leased than is necessary.

With regard to the ornamental expenses, the lessee shall not be entitled to any reimbursement, but he may remove the ornamental objects, provided no damage is caused to the principal thing, and the lessor does not choose to retain them by paying their value at the time the lease is extinguished. (Emphasis ours.)

A lessee is not treated the same way as a builder in good faith who believed himself to be the owner of the land, and as such built thereon and incurred expenses in doing so; and who, under Articles 448[32] and 546[33] of the New Civil Code, is vested the rights of retention and reimbursement for necessary and useful expenses made on the land. A lessee, being conclusively presumed to know that he is not the owner of the land that he is leasing, and constructs a house or building or any other improvement or structure on the leased land, only has the right granted to him by Article 1678 of the Civil Code to remove the same in case the lessor elects not to appropriate the building and pay 50% of its value.[34] Knowing that his occupation of the premises continued only during the life of the lease contract and that he must vacate the premises upon termination of the lease, or even earlier, if he violated the terms thereof, the lessee is deemed to have introduced the improvements at his own risk. He cannot recover their value, much less retain the premises until reimbursement is made.[35]

Even more severe was paragraph 6 of the Lease Agreement dated 21 February 1986, made an integral part of the MOA dated 8 August 1991 between TOTCO and AMS, which granted AMS, upon the expiration of the lease, the right, but not the obligation, to remove the improvements it introduced on the leased land. The said paragraph did not at all require TOTCO to pay or compensate AMS for the value of the improvements in the event that AMS would choose not to remove the same.[36]

In light of the foregoing, when AMS entered into a lease agreement of the agricultural land with TOTCO, it had no right to expect that, upon the termination of the lease, it would be compensated for the crops it planted and improvements it built on the leased land; or that, if at all, it can recover more than half the value thereof from TOTCO. Hence, the Court cannot allow AMS to seek full compensation for the same crops and improvements from the LBP just because its lease was terminated by the sale of the leased property to the Republic under the

CARP. That the leased land was placed under the CARP did not change the status of AMS as a lessee and gave it the right to more compensation upon the termination of the lease, as compared to the lessee of any other kind of property. It was never the intention of the CARL to create a privileged class of lessees.

AMS has no interest in the just compensation paid by LBP to TOTCO pursuant to the judgment in DAR Case No. 52-99.

The Decision dated 8 March 2000 of the RTC in DAR Case No. 52-99 is actually irrelevant to AMS. Since AMS was not a landowner, but a mere lessee of the agricultural land owned by TOTCO, it had no right under the CARL to demand from LBP just compensation for its standing crops and improvements. Thus, it cannot lay claim to the portion of the just compensation, pertaining to the improvements on the leased property, awarded by the RTC to TOTCO in DAR Case No. 52-99. And consequently, the Affidavit of Third Party Claim filed by AMS President Soriano in DAR Case No. 52-99 over the just compensation awarded to TOTCO is without merit.

As a lessee, the rights of AMS over its standing crops and improvements on the leased property are defined, conferred, as well as limited by the provisions of the MOA it executed with TOTCO on 8 August 1991, in relation to those of the Civil Code. Such rights are totally independent of and unaffected by the judgment of the RTC in DAR Case No. 52-99. That the leased property was placed under the CARP and that TOTCO received just compensation therefor are not relevant to the rights of AMS as a lessee. Rather, what is significant to AMS is only the fact that it was deprived of the peaceful and adequate enjoyment of the property for the duration of the period of lease agreed upon in the MOA.

WHEREFORE, premises considered, the instant Petition for Review is hereby GRANTED. The Decision dated 28 March 2006 and Resolution dated 26 September 2006 of Court of Appeals in CA-G.R. SP No. 77520 is ANNULLED and SET ASIDE. The Petition for the determination of just compensation with prayer for the issuance of a writ of preliminary injunction and temporary restraining order filed by respondent AMS Farming Corporation before Regional Trial Court, Tagum City, Davao del Norte, Branch 2, and docketed as Special Agrarian Case No. 61-2000, is ordered DISMISSED, without prejudice to the filing by respondent AMS Farming Corporation of the appropriate case against its lessor, Totco Credit Corporation, pursuant to the provisions of the Civil Code on lease contracts.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Rollo, pp. 39-90.

[2] Penned by Associate Justice Edgardo A. Camello, with Associate Justices Normandie B. Pizarro and Ricardo R. Rosario, concurring; rollo, pp. 91-109.

[3] Id. at 110-112.

[4] Penned by Judge Erasto D. Salcedo, id. at 237-299.

[5] Id. at 174-179.

[6] Id. at 180-184.

[7] Section 2.

[8] As quoted in the RTC Decision, dated 8 March 2000, in DAR Case No. 52-99, rollo, pp. 202-203.

- [9] Penned by Judge Bernardo V. Saldares, rollo, pp. 192-218.
- [10] Id. at 217-218.
- [11] Penned by Judge Bernardo V. Saldares, *ibid.*, p. 401.
- [12] Id. at 408.
- [13] Penned by Judge Erasto D. Salcedo, rollo, pp. 404-406.
- [14] Id. at 406.
- [15] Id. at 165-173.
- [16] Id. at 171-172.
- [17] As quoted in the RTC Decision dated 11 March 2003 in Special Agrarian Case No. 61-2000, rollo, pp. 251-254.
- [18] Id. at 267.
- [19] Rollo, pp. 298-299.
- [20] Id. at 108.
- [21] G.R. No. 93661, 4 September 1991, 201 SCRA 299, 304-306.
- [22] G.R. No. 148223, 25 November 2004, 444 SCRA 176, 186-188.
- [23] Created under Chapter IV of Republic Act No. 3844 (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).
- [24] Section 3 of Memorandum Circular No. 9 issued by Office of the President on 27 August 1998.
- [25] Annexes "O" and "P" of the Petitioner; rollo, pp. 311-313.
- [26] *Canuto, Jr. v. National Labor Relations Commission*, 412 Phil. 467, 474 (2001).
- [27] *Veluz v. Court of Appeals*, 399 Phil. 539, 548-549.
- [28] *Calo v. Tan*, G.R. No. 151266, 29 November 2005, 476 SCRA 426, 440.
- [29] *Paras v. Commission on Elections*, 332 Phil. 56, 64 (1996).
- [30] See *Abrigo v. De Vera*, G.R. No. 154409, 21 June 2004, 432 SCRA 544, 551.
- [31] Rollo, pp. 181-182.
- [32] ART. 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in Articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.

[33] ART. 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

[34] See *Sia v. Court of Appeals*, 338 Phil. 652 (1997).

[35] *Imperial Insurance, Inc. v. Simon*, 122 Phil. 189, 197-198 (1965).

[36] Paragraph 6 of the Lease Agreement of 21 February 1986 did allow the purchase by TOTCO of movable improvement made by AMS and which it wished to retain.

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