

ROSITA A. MONTANEZ, PETITIONER, VS. PROVINCIAL AGRARIAN REFORM ADJUDICATOR (PARAD), NEGROS OCCIDENTAL, GIL A. ALEGARIO, DEPARTMENT OF AGRARIAN REFORM (DAR), AS REPRESENTED BY TH...

G.R. No. 183142. September 17, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This petition for review under Rule 45 assails and seeks to set aside the Amended Decision[1] dated April 18, 2008 of the Court of Appeals (CA) in CA-G.R. CEB-SP No. 00229, entitled Rosita A. Montanez v. Provincial Agrarian Reform Adjudicator (PARAD), Negros Occidental, Gil A. Alegario, Department Of Agrarian Reform (DAR), as represented by the Municipal Agrarian Reform Officer (MARO) of La Castellana, et al.

The Facts

Petitioner Rosita A. Montanez was the owner of two (2) parcels of land with an aggregate area of 35.5998 hectares, both located at La Castellana, Negros Occidental, the first denominated as Lot 750-A and registered under Transfer Certificate of Title (TCT) No. T-71582,[2] with an area of 21.9586 hectares. The second, denominated as Lot 850-A, had an area of 13.6412 hectares and was then covered by TCT No. T-71583.[3]

In October 1999, the DAR caused the publication of a Notice of Land Coverage for Negros Occidental,[4] which included the two parcels of land referred to above. The notice, however, erroneously identified one of the lots as covered by TCT No. T-71589, instead of by T-71583. Later, the DAR notified[5] petitioner that her property, to the extent of 32.4257 hectares, has been placed under the Comprehensive Agrarian Reform Program (CARP) and offered to compensate her the amount of PhP 5,592,3001.60 based on the valuation of the Land Bank of the Philippines (LBP), subject to price adjustment to conform to the actual area coverage. Albeit petitioner rejected the offer, it would appear that the LBP later issued in her favor a certification of deposit, in cash and in bonds, corresponding to the amount aforesated.[6]

On June 28, 2000, the DAR secured from the Negros Occidental Registry the cancellation of petitioner's TCT Nos. T-71583 and T-71582 and the issuance, in lieu thereof, of TCT Nos. T-205481[7] and T-205482[8] respectively, in the name of the Republic of the Philippines (Republic). On its face, TCT No. T-205481 identified the Republic and the petitioner as owners of 11.4654 hectares and 2.1758 hectares, respectively, of the registered land. In TCT No. 205482, the Republic and the petitioner are shown as owning 20.9603 and .9983 hectares, respectively.

Later on the same day, TCT No. CLOA (Certificate of Land Ownership Award) 8434[9] covering an area of 21.9586 hectares was issued, purportedly as a transfer from "TCT Nos. T-715831/T-205482." On the other hand, TCT No. CLOA-8435[10] for an area of 13.6412 hectares was issued, purportedly as a transfer from "TCT Nos.

T-715832/T-205481." Evidently, such notations on the CLOAs were erroneous, the aggregate land area stated in the CLOAs being larger than what was reflected in the titles whence the CLOAs emanate. In any event, said CLOAs were registered in the name of, and delivered to, individual respondents as CARP beneficiaries.

Petitioner forthwith filed a Petition[11] with the Provincial Agrarian Reform Adjudication Board (PARAB) of Negros Occidental for the annulment/cancellation of TCT Nos. CLOA-8434, CLOA-8435, T-205481 and T-205482 on the ground of irregular and anomalous issuance thereof. The case was docketed as DARAB Case No. R-0605-1707-03.

By Decision[12] dated October 18, 2004, Provincial Agrarian Reform Adjudicator (PARAD) Gil Alegario gave the petition a short shrift, stating that petitioner based "her action [for annulment/cancellation] on purely technical grounds" referring to the discrepancy between the area coverage stated in the CLOAs and that stated in the TCTs. These grounds, according to the PARAD, are beyond the ambit of, and are not among those enumerated in DAR Administrative Order No. 2,[13] Series of 1994, for the cancellation of CLOAs and emancipation patents (EPs). PARAD Alegario, however, stated the observation that the aberration is correctible administratively and that the DAR has effectively acknowledged the fact of discrepancy by inscribing at the back of the CLOAs the condition that the CARP award is subject to "segregation and reconveyance."

Therefrom, petitioner went straight to the CA via a petition for certiorari under Section 54 of Republic Act No. (RA) 6657,[14] docketed as CA-G.R. CEB-SP No. 00229. Public respondents sought the dismissal of this recourse on the ground of non-exhaustion of administrative remedies. In the meantime, the CA, by Resolution[15] of February 7, 2005, ordered the PARAD of Negros Occidental and other agrarian officers "to maintain a status quo including the non-enforcement of the PARAD decision in DARAB Case No. R-0605-1707-03 until further order from [the] Court."

On December 27, 2005, the CA, on the holding that the petitioner is entitled to the rectification of the technical error referred to above, but that the DAR is the proper office to effect the correction, rendered a decision, the dispositive portion of which states:

WHEREFORE, the petition for certiorari is hereby GRANTED.

The Decision dated October 18, 2004 issued by PARAD Gil A. Alegario in DARAB Case No. R-0605-1707-03 is hereby SET ASIDE.

The original petition is hereby referred to the Department of Agrarian Reform for correction of the technical description in TCT No. CLOA-8434 and TCT No. CLOA-8435, and to take such action as may be necessary and desirable to put into effect the directive herein.

SO ORDERED.[16]

To the CA, the DARAB--and necessarily its provincial and regional adjudication boards--cannot take cognizance of the case owing to the absence of tenancy relationship between the private parties. This jurisdictional determination notwithstanding, the CA still ruled that there was no violation of the exhaustion of administrative remedies doctrine.[17]

From the above decision, the DAR sought reconsideration while the petitioner interposed a partial motion for reconsideration.[18] On April 18, 2008, the appellate court rendered the assailed Amended Decision, disposing as follows:

WHEREFORE, prescinding from all of the foregoing considerations, public respondent DAR's Motion for Reconsideration is hereby GRANTED, the Decision of this court dated 27 December 2005 is SET ASIDE and the present petition for certiorari is DISMISSED. Accordingly, the status quo order issued by this Court on 7

February 2005 is revoked and rendered without force and effect.

Petitioner's Partial Motion for Reconsideration is PARTIALLY GRANTED insofar as the issue of the jurisdiction of public respondent PARAD over petitioner's complaint is concerned which is also in consonance with public respondent DAR's contention. Her prayer for this Court to declare as null the subject CLOAs and the land titles issued pursuant thereto is, however, DENIED.

SO ORDERED.[19]

The amended decision, in essence, held: the underlying DARAB Case No. R-0605-1707-03 is cognizable by the PARAB whose decision is appealable to DARAB Proper. As a necessary consequence, petitioner breached the rules on exhaustion when she went directly to the CA to challenge PARAD Alegario's decision. The CA wrote:

x x x This Court's ruling in the challenged Decision is certainly erroneous pertaining to the pronouncement that since there was no tenancy relationship between petitioner and private respondents, public respondent PARAD had no jurisdiction over petitioner's complaint for annulment of CLOAs. Under the DARAB Rules of Procedure, it is expressly stated that cases involving the issuance, correction and cancellation of CLOAs are within the DARAB's jurisdiction. x x x

x x x x

Proceeding to the second issue, WE believe that, at the outset, petitioner availed of the wrong remedy when she filed the instant petition for certiorari with this Court and it was a mistake that due course was given to it. Well-settled is the rule that "the proper remedy from a decision of the PARAD was an appeal to the DARAB."

x x x

x x x x

Verily, x x x petitioner's proper recourse of public respondent PARAD's decision should have been to file an appeal with the DARAB and not a petition for certiorari with this Court. "Prior resort to these administrative bodies will not only satisfy the rule on exhaustion of administrative remedies, but may likewise prove advantageous to the parties as the proceedings will be conducted by experts and will not be limited by the technical rules of procedure and evidence."

x x x x

Therefore, the Court is, in the first place, not in the position to declare the CLOAs null and void owing to the incorrect remedy sought by petitioner. The procedural shortcut taken by her does not find basis in law and jurisprudence x x x. Furthermore, even assuming arguendo that the petition for certiorari is properly filed, to declare the CLOA's as null and void is still not within OUR province. "In a petition for certiorari, the jurisdiction of the appellate court is narrow in scope. It is limited to solving only errors of jurisdiction. It is not to stray at will and resolve questions or issues beyond its competence, such as an error of judgment which is defined as one in which the court or quasi-judicial body may commit in the exercise of its jurisdiction x x x." [20]

Hence, the instant petition predicated on twelve (12) main and five (5) subordinate grounds,[21] not one of which touching on the matter of exhaustion of administrative remedies when the ratio of the CA's dismissal action in CA G.R. CEB-SP No. 00229 pivots on the issue of non-exhaustion. Before anything else, therefore, the issue to be addressed should be whether or not petitioner failed to observe the doctrine of exhaustion of administrative remedies and, if so, what is the effect of such failure?

Exhaustion of administrative remedies is a doctrine of long standing and the Court has set out clear guidelines on the matter. *Paat v. Court of Appeals* expounded on the doctrine, the recognized exceptions thereto, and the effect on non-compliance therewith in the following wise:

This Court in a long line of cases has consistently held that before a party is allowed to seek the intervention of the court, it is a pre-condition that he should have availed of all the means of administrative processes afforded him. Hence, if a remedy within the administrative machinery can still be resorted to by giving the administrative officer concerned every opportunity to decide on a matter that comes within his jurisdiction then such remedy should be exhausted first before court's judicial power can be sought. The premature invocation of court's intervention is fatal to one's cause of action. Accordingly, absent any finding of waiver or estoppel the case is susceptible of dismissal for lack of cause of action. This doctrine of exhaustion x x x was not without its practical and legal reasons, for one thing, availment of administrative remedy entails lesser expenses and provides for a speedier disposition of controversies. It is no less true to state that the courts of justice for reasons of comity and convenience will shy away from a dispute until the system of administrative redress has been completed and complied with so as to give the administrative agency concerned every opportunity to correct its error and to dispose of the case. However, x x x the principle of exhaustion of administrative remedies as tested by a battery of cases is not an ironclad rule. This doctrine is a relative one and its flexibility is called upon by the peculiarity and uniqueness of the factual and circumstantial settings of a case. Hence, it is disregarded (1) when there is a violation of due process, (2) when the issue involved is purely a legal question, (3) when the administrative action is patently illegal amounting to lack or excess of jurisdiction, (4) when there is estoppel on the part of the administrative agency concerned, (5) when there is irreparable injury, (6) when the respondent is a department secretary whose acts as an alter ego of the President bears the implied and assumed approval of the latter, (7) when to require exhaustion of administrative remedies would be unreasonable, (8) when it would amount to a nullification of a claim, (9) when the subject matter is a private land in land case proceedings, (10) when the rule does not provide a plain, speedy and adequate remedy, and (11) when there are circumstances indicating the urgency of judicial intervention.[22] (Emphasis in the original.)

Of the same tenor, sans an enumeration of the exceptions, is what the Court said in *Asia International Auctioneers, Inc. v. Parayno*,[23] viz:

Petitioner's failure to ask the CIR for a reconsideration... is another reason why the instant case should be dismissed. It is settled that the premature invocation of the court's intervention is fatal to one's cause of action. If a remedy within the administrative machinery can still be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his jurisdiction, then such remedy must first be exhausted before the courts power of judicial review can be sought. The party with an administrative remedy must not only initiate the prescribed administrative procedure to obtain relief but also pursue it to its appropriate conclusion before seeking judicial intervention in order to give the administrative agency an opportunity to decide the matter itself correctly and prevent unnecessary and premature resort to the court.

Corollary to the exhaustion rule is the doctrine of primary jurisdiction, a basic postulate which precludes courts from resolving a controversy over which jurisdiction has initially been lodged with an administrative body of special competence.[24]

The Court's Ruling

Following the lessons of *Paat* and *Asia International Auctioneers, Inc.*, the denial of the instant petition is clearly indicated. It bears to stress at the outset that, as aptly observed by the CA,[25] there is no challenge from either of the parties to the jurisdiction of the PARAB or the provincial agrarian adjudicator to take cognizance of the basic petition of petitioner for annulment/cancellation of TCT Nos. CLOA-8434, CLOA-8435, T-205481 and T-205482. Just as well. For, the DARAB and its regional and provincial adjudication boards have jurisdiction to adjudicate all agrarian disputes and controversies or incidents involving the implementation of CARP under RA 6657 and other agrarian law and their implementing rules and regulations.[26] Such jurisdiction of DARAB includes cases involving the issuance, correction, and cancellation of CLOAs and EPs which are registered with the Land Registration Authority.[27]

For the purpose of applying the rule on exhaustion, the remedies available to the petitioner are clearly set out in the DARAB 2003 Rules of Procedure, which took effect on January 17, 2004.[28] Under Section 1.6, Rule II, the "adjudicator shall have primary and exclusive jurisdiction to determine and adjudicate x x x cases x x x involving the correction, x x x cancellation, secondary and subsequent issuances of [CLOAs] and [EPs] which are registered with the Land Registration Authority." [29] According to the succeeding Section 2[30] in relation to Rule XIV,[31] the proper remedy from an adverse final resolution, order, or resolution on the merits of the adjudicator is an appeal to the DARAB Proper which, among others, require the filing of a notice of appeal and payment of an appeal fee. And from the decision of the DARAB Proper, an appeal may be taken to the CA pursuant to Rule XV.[32]

Given the above perspective, the CA acted correctly and certainly within its sound discretion when it denied, in its amended decision, petitioner's petition for certiorari to nullify the PARAD's decision. Under the grievance procedure set forth in the DARAB Rules of Procedure, PARAD Alegario's decision was appealable to the DARAB Proper. The CA's appellate task comes later--to review the case disposition of the DARAB Proper when properly challenged.

In this recourse, petitioner makes little of the clear provisions of the DARAB Rules on the right appellate forum and correct mode of appeal. As she argues, the filing of her petition for certiorari after the issuance of the PARAD Decision was but proper as the PARAD Decision was that of the DAR itself, hence may be elevated to the CA pursuant to Section 54 of RA 6657 which states:

SEC. 54. Certiorari. - Any decision, order, award or ruling of the DAR on any agrarian dispute or on any matter pertaining to the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform may be brought to the Court of Appeals by certiorari except as otherwise provided in this Act within fifteen (15) days from receipt of a copy thereof.

The findings of fact of the DAR shall be final and conclusive if based on substantial evidence.

Petitioner is now assuming a contradictory posture. As a matter of record, her partial motion for reconsideration[33] of the original CA decision recognized the applicability of the DARAB Rules of Procedure to the instant case. Now then, the DARAB Rules defines the jurisdiction of PARAD and prescribes the rules on appeals from the PARAD decision. In that partial motion, she stated:

While it is true that there is no tenancy relationship that was raised as an issue, the PARAD has the jurisdiction to hear, determine and adjudicate this case involving the cancellation and annulment of the subject CLOAs which were registered before the Register of Deeds of the Province of Negros Occidental.

The jurisdiction of the PARAD over the instant case is conferred by the DARAB New Rules of Procedures x x x.[34]

In a real sense, petitioner is estopped at this stage to downplay the applicability of the DARAB rules. She cannot be allowed to invoke the rules when convenient, and disregard the same when its application is adverse to her cause. Raising the PARAD's decision to the level of that of the DAR Secretary strikes us as a strained rationalization to lend tenability to an erroneous choice of a reviewing forum. While the DARAB, provincial and central, is the DAR's adjudicative arm,[35] the respective jurisdictions of DAR and DARAB are distinct and separate. *Nuesa v. Court of Appeals* delineated the boundaries of their adjudicative competence in the field of land reform in the following manner:

As held by this Court in *Centeno v. Centeno*, "the DAR is vested with the primary jurisdiction to determine and adjudicate agrarian reform matters and shall have the exclusive jurisdiction over all matters involving the implementation of the agrarian reform program." The DARAB has primary, original and appellate jurisdiction

"to determine and adjudicate all agrarian disputes, cases, controversies, and matters or incidents involving the implementation of the [CARP] under R.A. 6657, E.O. Nos. 229, 228 and 129-A, R.A. 3844 as amended by R.A. 6389, P.D. No. 27 and other agrarian laws and their implementing rules." (Citation omitted.)

While not determinative of the issue at hand, the decision of the DAR may initially be appealed to the Office of the President, while that of the DARAB Proper is appealable only to the court.

In its December 27, 2005 decision, the CA wrote:

In this case, an appeal to the DARAB would have been an exercise in futility for the petitioner and would only serve to add a bureaucratic layer to the case. The (public) respondents have revealed that petitioner had filed petitions for retention and inclusion of her farm workers as beneficiaries before the DAR. An Order dated September 2, 2003 was issued by the DAR Regional Director denying the petition for utter lack of merit and on the ground that the petitioner has no legal capacity to file, not being a party-in-interest. Her petitioner before the PARAD was also dismissed.[36] (Emphasis ours.)

Petitioner's invocation of the foregoing CA pronouncement to justify her elevation of the PARAD decision to the appellate court instead of to the DARAB is misplaced. For one, the aforequoted holding is without any binding effect, having effectively been superseded by the issuance of the Amended Decision. And for another, only decisions of the Court have the force of precedents and form part of the legal system.[37]

There is no question then that petitioner, in seeking recourse with the CA from the decision of the PARAD, failed to exhaust administrative remedies. The eventual dismissal by the CA of her petition on that ground stands on legal ground. To recall what we said in *Paat*, "the premature invocation of court's intervention is fatal to one's cause. x x x The case is susceptible of dismissal for lack of cause of action."

It is true that the rule on exhaustion of administrative remedies admits of several exceptions. Not one, however, obtains under the premises. What comes close is the reason given originally by the CA and which petitioner made capital of--that an appeal to the DARAB would be useless.

We are not persuaded. Other than its non-sequitur line that "petitioner had filed petitions for retention and inclusion of her farm workers as beneficiaries before the DAR" and that in an Order dated September 2, 2003, the "DAR Regional Director [has denied the petition] for utter lack of merit,"[38] the CA had not explained with some measure of plausibility how it arrived at its conclusion on the futility of an appeal to the DARAB. Petitioner fares no better. Absent such explanation, the conclusion must be rejected as an arrant presumption. And it cannot be over-emphasized that the adverted Order of September 2, 2003 referred to in the CA's original decision denied petitioner's petitions for retention and inclusion, while, in the instant case, the main thrust of her petition is for the annulment of the CLOAs. There is, therefore, no logical basis for the conclusion that the DARAB, which counts the DAR Secretary as a member, would rule similarly in patently and completely different cases.

Bare misgivings about the ability of a quasi-judicial agency to render impartial justice would not, standing alone, be a sufficient reason to dispense with the exhaustion of administrative remedies doctrine. As it were, the doctrine ensures the efficient and speedy disposition of cases.

In all then, we find that petitioner had, without reason, let alone explanation, failed to exhaust administrative remedies provided by law. Such lapse, by weight of established jurisprudence, is fatal to her petition.

Due to petitioner's resort to an improper remedy, the filing of the petition before the CA did not toll the reglementary period for filing an appeal with the DARAB.[39] As such, the decision of the PARAD should ordinarily be considered as final and executory. But the Court need not rub it in all the more by depriving petitioner of any remedy. The nature of the issues raised by petitioner before the PARAD--such as, but not limited

to, the irregularity in the initial acquisition proceedings, the undue haste in the issuance of the TCT-CLOAs, and the consequent cloud that hangs over the CLOAs in question--needs to be addressed. The PARAD no less admitted that the entries and annotations made in the CLOAs were erroneous and adverse to the interest of petitioner, who it seems has yet to receive just compensation for her two parcels of land. The inequity of barring petitioner from vindicating her right is rendered more acute in the face of the undisputed fact that the DAR has taken her property for CARP purposes ostensibly with their agents in the field not hewing strictly with the requirements of the law and whose negligence tainted the CLOAs thus issued. The purpose behind the passage of the CARP law would not be compromised should petitioner be allowed to pursue her case before the right forum. With this in mind, we remand the instant case to the DARAB for proper disposition of the issues raised by petitioner.

WHEREFORE, the petition is hereby DENIED. The CA's April 18, 2008 Amended Decision in CA-G.R. CEB-SP No. 00229 is AFFIRMED. The case is remanded to the DARAB for the disposition of the issues raised by petitioner.

Costs against petitioner.

SO ORDERED.

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

[1] Rollo, pp. 67-75. Penned by Associate Justice Priscilla Baltazar-Padilla (Chairperson) and concurred in by Associate Justices Franchito N. Diamante and Florito S. Macalino.

[2] Id. at 123-126.

[3] Id. at 116-122.

[4] Id. at 127.

[5] Id. at 128. Per Notice of Land Valuation and Acquisition dated March 31, 2000.

[6] Id. at 54.

[7] Id. at 133-137.

[8] Id. at 129-132.

[9] Id. at 138-141.

[10] Id. at 142-147.

[11] Id. at 109-115.

[12] Id. at 99-108.

[13] Entitled "Rules Governing the Correction and Cancellation of Registered/Unregistered Emancipation Patents (EPs), and Certificates of Land Ownership Award (CLOAs) Due to Unlawful Acts and Omissions or Breach of Obligations of Agrarian Reform Beneficiaries (ARBs) and for Other Causes."

[14] The Comprehensive Agrarian Reform Law, as amended.

[15] Rollo, p. 196.

[16] Id. at 56-57.

[17] Id. at 54-55.

[18] Id. at 58-65.

[19] Id. at 74.

[20] Id. at 72-74.

[21] 1. Whether or not a status quo order or TRO and preliminary injunction should be issued to prevent the following: 1) violations of the Constitution of the Republic of the Philippines, particularly Section 1 and 9; 2) violation of the Comprehensive Agrarian Reform Law, and 3) violation of the New Civil Code of the Philippines, as well as, 4) to protect the rights and interest of the petitioner and her children over the subject land and the standing sugarcane crops thereon, and, 5) to prevent irreparable damages to the petitioner;

2. Whether or not the findings of the Court of Appeals in its Decision, dated December 27, 2005, that "the subject CLOAs cannot cover an area bigger and larger in size that the titles from which these emanate and to allow the erroneous designation to remain in the CLOAs would be condoning the taking of property without due process and without just compensation", still remain as conclusion of facts considering that said findings were not specifically reversed in the Decision dated April 18, 2008;

3. Whether or not the Decision, dated April 18, 2008, of the Court of Appeals, is in effect tantamount to condoning the taking of property of the petitioner without due process and without just compensation, in violation of the Constitutional mandate that no person shall be deprived of property without due process of law and that no private property shall be taken for public use without just compensation;

4. Whether or not the filing before the Court of Appeals of the petition for certiorari questioning the Decision, dated October 18, 2004 of the Provincial Agrarian Reform Adjudicator, Gil A. Alegario, pertaining to the application, implementation, enforcement or interpretation of the Comprehensive Agrarian Reform Law is in accordance with Sec. 54, Chapter XIII of the Comprehensive Agrarian Reform Law;

5. Whether or not the DAR had the authority and jurisdiction to commence the coverage and acquisition of the land of the petitioner on October 12, 1999, after the expiration of the ten year period provided for by the Comprehensive Agrarian Reform Law;

6. Whether or not Republic Act No. 8532 which provides for funding for land acquisition for another ten years gave the DAR authority to commence coverage and acquisition of private agricultural lands after the expiration of ten-year period provided for by Republic Act No. 6657;

7. Whether or not the CLOAs which contain an area bigger and larger than the title from, which they emanate and were issued and registered without payment of just compensation nor summary administrative proceedings for just compensation, null and void;

8. Whether or not the improper identification of Lot No. 850-A in the Notice of Coverage dated October 12, 1999 which was published in a newspaper by the DAR, invalidates the coverage and acquisition by the DAR of Lot No. 850-A of the Petitioner and TCT No. CLOA-8435 and RP TCT No. T-205482 issued in lieu thereof, null and void;

9. Whether or not the coverage and acquisition of Lot No. 750-A and Lot No. 850-A by the DAR, after the expiration of the ten year period authorizing the DAR to acquire agricultural lands provided for by the Comprehensive Agrarian Reform Law, null and void, and whether the CLOAs and the RP titles issued and

registered in lieu thereof, null and void;

10. That granting the DAR had jurisdiction to commence the coverage and acquisition of the land of the petitioner after the expiration of the period of authority of the DAR to acquire agricultural lands as provided for by Republic Act 6657 or CARP Law:

A. Whether or not the CLOAs and RP titles are null and void considering the following:

I. The DAR had no jurisdiction to issue the CLOAs ahead of the issuance and registration of the titles in the names of the Republic of the Philippines from where the CLOAs should emanate and before the summary administrative proceedings for just compensation in violation of Sec. 16 of the Comprehensive Agrarian Reform Law;

II. The CLOAs cannot be bigger and larger in size than the titles from which these emanate;

III. The CLOAs were issued in violation of the Constitution of the Republic of the Philippines since there was no due process and no just compensation;

IV. That since there was no actual survey made by the DAR, there was no segregation of the land that are not actually used for agricultural purposes such as the residential portions thereof and portions that are not CARPable such as those area planted to fruit trees and timbers;

V. There is no segregation of the retention area of five hectares awarded to the petitioner in Lot 750-A and Lot 850-A;

11. Whether or not the mortgage of CLOAs with the Landbank, null and void;

12. Whether or not the petitioner shall be entitled to damages under the New Civil Code of the Philippines.

[22] G.R. No. 111107, January 10, 1997, 266 SCRA 167.

[23] G.R. No. 163445, December 18, 2007, 540 SCRA 536, 552.

[24] *Bautista v. Mag-isa Vda. De Villena*, G. R. No. 152564, September 13, 2004, 438 SCRA 259.

[25] *Rollo*, p. 71.

[26] *Hermoso v. C.L. Realty Corporation*, G.R. No. 140319, May 5, 2006, 489 SCRA 556.

[27] *Bautista*, supra note 24.

[28] *LBP v. Martinez*, G.R. No. 169008, August 14, 2007, 530 SCRA 158, 168.

[29] An almost similar provision is found in the DARAB New Rules of Procedure adopted on May 30, 1994.

[30] SECTION 2. Appellate Jurisdiction of the Board. The Board shall have exclusive appellate jurisdiction to review, reverse, modify, alter, or affirm resolutions, orders, and decisions of its Adjudicators.

No order of the Adjudicators on any issue, question, matter, or incident raised before them shall be elevated to the Board until the hearing shall have been terminated and the case decided on the merits.

[31] SECTION 1. Appeal to the Board. An appeal may be taken to the Board from a resolution, decision or final order of the Adjudicator that completely disposes of the case x x x within a period of fifteen (15) days from receipt of the resolution/decision/final order appealed from or of the denial of the movant's motion for reconsideration in accordance with Section 12, Rule IX by:

- 1.1 filing a Notice of Appeal with the Adjudicator who rendered the decision or final order appealed from;
- 1.2 furnishing copies of said Notice of Appeal to all parties and the Board; and
- 1.3 paying an appeal fee of x x x (PhP700.00) to the DAR Cashier where the Office of the Adjudicator is situated or through postal money order, payable to the DAR Cashier where the Office of the Adjudicator is situated x x x.

[32] SECTION 1. Appeal to the Court of Appeals. Any decision, order, resolution, award or ruling of the Board on any agrarian dispute or any matter pertaining to the application, implementation, enforcement, interpretation of agrarian reform laws or rules and regulations promulgated thereunder, may be brought on appeal within fifteen (15) days from receipt of a copy thereof, to the Court of Appeals in accordance with the Rules of Court.

[33] Rollo, pp. 58-65.

[34] Id. at 60.

[35] Hermoso, supra note 26.

[36] Rollo, pp. 54-55.

[37] Government Service Insurance System v. Cadiz, G.R. No. 154093, July 8, 2003, 405 SCRA 450, 456.

[38] Rollo, p. 55.

[39] Aguila v. Baldovizo, G.R. No. 163186, February 28, 2007, 517 SCRA 91, 98.

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