

**NICANOR MALABANAN, AURORA MANAIG, RONNIE MALABANAN,
VICTOR MALABANAN, SEVERINO MALABANAN, EUFROCINIA
MALABANAN, EUFROCILA MALABANAN, REYNALDO MALABANAN,
AND DONATA MALABANAN, PE...**

G.R. No. 185312. December 01, 2016

Ponente: SERENO, C.J.

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SERENO, C.J.:

This is a Petition for Review on Certiorari assailing the Court of Appeals (CA) Decision[1] in CA-G.R. SP No. 97787, which affirmed the Department of Agrarian Reform Adjudication Board (DARAB) Resolution dated 10 October 2006.[2] The latter reinstated the Decision[3] issued by the Regional Agrarian Reform Adjudication Board (RARAD), Region IV, in the Petition for Cancellation of Certificates of Land Ownership Award (CLOAs), Declaration of Nullity of Sale, Repossession and Reconveyance filed by respondents against petitioners.

RARAD directed the Cavite Provincial Agrarian Reform Officer (PARO), as well as the Register of Deeds (RD), to recall the CLOAs and the Transfer Certificates of Title (TCTs) issued to petitioners over a sequestered agricultural land previously owned by respondents' father. In lieu thereof, RARAD ordered the issuance of new certificates in favor of respondents. Petitioners argue, however, that it had no jurisdiction over the petition.

ANTECEDENT FACTS

The disputed property is an 8.839-hectare agricultural land situated in Potrero, Bancal, Carmona, Cavite. It used to be registered under the name of Alfredo Restrivera, as shown by his Original Certificate of Title (OCT) No. 0-13.[4] In 1968, OCT No. 0-13 was cancelled by TCT No. T-28631 under the name of Independent Realty Corporation (IRC). After the ouster of the Marcos administration, the IRC voluntarily surrendered the land to the Philippine Commission on Good Government (PCGG).[5]

The PCGG then transferred the above property to the Department of Agrarian Reform (DAR) for distribution to qualified farmer-beneficiaries of the Comprehensive Agrarian Reform Program (CARP) by virtue of the Memorandum of Agreement (MOA) on Sequestered Agricultural Lands between the PCGG and the then Ministry of Agrarian Reform (MAR),[6] as well as Executive Order (E.O.) No. 407, Series of 1990.[7]

In February 2002, DAR awarded the land to petitioners. Two collective CLOAs[8] were generated and the RD eventually issued to them derivative TCT Nos. CLOA-2838[9] and CLOA-2839.[10]

Invoking their preferential right as farmer-beneficiaries under Section 22 of Republic Act No. (R.A.) 6657,[11] respondents filed before the Adjudication Board for Region IV a Petition for Cancellation of CLOA, Declaration of Nullity of Sale, Repossession and Reconveyance[12] against petitioners, Charmaine Uy, the PARO of Cavite, and the RD of Cavite in February 2003.

Respondents alleged that (1) Alfredo never transferred his title to the subject land to any entity; (2) petitioners

were perpetually disqualified from benefitting from CARP because they had sold the subject land to Charmaine Uy in violation of Section 73(f) of R.A. 6657 and DAR Memorandum Circular No. 19, Series of 1996;^[13] (3) prior to the award, petitioners also executed a waiver of their rights to the subject land in favor of other potential farmer-beneficiaries; and (4) the land had a slope of 18% as shown in the DAR regional director's Investigation Report^[14] and was, therefore, exempt from CARP coverage.

The Malabanans, the DAR-Legal Assistance Division, and Charmaine Uy filed separate Answers^[15] raising these substantially similar defenses: (1) no waiver of rights or sale of the subject land had ever occurred; (2) respondents had no legal standing to file the petition, because Restrivera was not the registered owner of the property; and (3) the petition was premature because whether or not the land was exempt from CARP was an Agrarian Law Implementation (ALI)^[16] issue that needed to be resolved first by the DAR Secretary.

RULING OF RARAD

RARAD disposed of the petition as follows:

WHEREFORE, premises considered, judgment is hereby issued:

1. Declaring that the generation and the subsequent issuance of CLOA Nos. 00596619 and 00596620 registered under TCT No. CLOA 2838 and TCT 2839, respectively, covering the subject parcel of land were in violation of petitioners' preferential rights as farmer-beneficiaries under Section 22 of RA 6657 and under the Memorandum of Agreement (MOA) between DAR and the PCGG dated February 23, 1987;
2. Declaring further that the afore-cited CLOAs were issued over a property which is excluded/exempted under Section 10 RA 6657 for having more than 18 degrees slope;
3. Declaring finally that the preceding paragraphs 1 and 2 hereof warrant the cancellation of CLOA and the corresponding Transfer Certificate of Title derived therefrom registered in the name of private respondents;
4. Directing the public respondents to recall the afore-cited CLOAs and generate new ones in the name of the petitioners and submit the same to the Register of Deeds for the Province of Cavite;
5. Directing the Register of Deeds for the Province of Cavite to cause the cancellation of CLOAs and the derivative Transfer Certificate of Title above-cited and upon receipt of the newly generated CLOA as directed in paragraph 4 hereof to cause the registration of the same in place of the cancelled TCT/CLOA.^[17]

RARAD gave credence to the petitioners' denial of the supposed waiver of their rights and the sale of the subject land. Still, it sustained the claim of respondents as preferred beneficiaries and ruled that they had legal standing to assail the award of the land, since they were Alfredo's compulsory heirs.

Moreover, RARAD dismissed petitioners' theory that there were pending ALI issues that needed to be resolved by the DAR Secretary. Instead, it ruled that the regional director's Investigation Report was a conclusive finding that the land was exempt from CARP coverage; and that the issue of whether or not there was a violation of respondents' preferential right was judicial in nature.

Consequently, DAR's legal counsel^[18] filed a Motion for Reconsideration^[19] on behalf of the Malabanans, PARO, and the RD. Subsequently, he filed a Withdrawal of Appearance for Private Respondents-Farmer Beneficiaries.^[20] The Malabanans, without the assistance of counsel, filed a Notice of Appeal within the reglementary 15-day period.^[21]

Because of the pending Motion for Reconsideration, RARAD deferred its action on the Notice of Appeal.^[22] In the end, it denied the motion for lack of a new matter or substantial argument supporting a reversal of its

Decision.[23]

RULINGS OF DARAB

Upon Notice of Appeal[24] filed by DAR's legal counsel, DARAB directed all parties to submit their respective memorandums.[25]

In due course, DARAB rendered a Decision dated 28 April 2006,[26] with the following dispositive portion:

WHEREFORE, the Board resolves to SET ASIDE the assailed decision dated August 27, 2003 and immediately refer this case to the Honorable Office of the DAR Secretary for its determination on prejudicial issues concerning Agrarian Law Implementation (ALI).[27]

According to DARAB, the issues of whether the subject land was exempt from CARP coverage and whether the respondents were the preferred beneficiaries were ALI issues that had yet to be resolved by the DAR Secretary. It observed that the Investigation Report cited by respondents was not the outcome of an application for exemption or exclusion under the "Rules of Procedure for Agrarian Law Implementation (ALI) Cases." In this light, there was no basis for RARAD's cancellation of the CLOAs and the derivative TCTs on the ground that the awarded land was exempt from land distribution.

DARAB held that the adjudicator should have referred the petition to the DAR Secretary for the determination of those pending prejudicial ALI issues.

Moreover, DARAB dismissed respondents' argument that the appeal was dismissible because both the Malabanans and DAR failed to perfect their appeals. Instead, DARAB allowed the appeal in order to prevent a grave miscarriage of justice.

Upon Motion for Reconsideration[28] by respondents, however, DARAB issued a Resolution dated 10 October 2006 disposing as follows:

WHEREFORE, premises considered, the decision of the Board dated April 28, 2006 is SET ASIDE. A NEW DECISION is hereby rendered:

1. RECALLING and REINSTATING the Decision dated August 27, 2003 rendered by the Honorable Adjudicator a quo; and
2. DECLARING the Decision dated August 27, 2003 and the Resolution dated November 18, 2003 rendered by the Honorable Adjudicator a quo final in view of the defective notices of appeal filed by both public and private respondents-appellants.[29]

DARAB noted that the petition filed by respondents stemmed from their letter[30] to the DAR Secretary requesting an inspection of the subject land. In turn, the Secretary issued a Memorandum[31] indorsing their letter to the regional director and directing him to submit a comprehensive report on result of the latter's inspection. DARAB then ruled that the director's report was a determinative finding that the land was exempt from CARP, and that there were no pending ALI questions that needed to be resolved by the DAR Secretary.

It was further held that petitioners were indeed disqualified from benefitting from the agrarian reform program. Their waiver of their rights as farmer-beneficiaries supposedly showed that they did not possess the requisite willingness, aptitude or ability to cultivate the subject land. Therefore, the cancellation of their CLOAs and derivative TCTs was only proper.

DARAB reversed, as well, its earlier pronouncement that there was a compelling reason to relax procedural rules in this case. It ruled that the RARAD Decision had already lapsed into finality because of the failure of both the

Malabanans and DAR to perfect their appeals.

RULING OF THE CA

After the DARAB's denial of their Motion for Reconsideration,[32] petitioners filed a Petition for Review under Rule 42 before the CA.[33]

The appellate court, however, found petitioners' appeal unmeritorious. While conceding that the legality of the transfer of the subject land to the IRC had yet to be determined before the proper forum, the CA nonetheless ruled that respondents were entitled to the property, because it was registered under their father's name prior to its transfer to the IRC. For this reason, they had legal personality to assail its award to petitioners.

The CA ruled further that the transfer by petitioners of their rights to the land was an additional ground for the cancellation of their titles. Consequently, the DARAB properly affirmed the RARAD Decision.

Lastly, the CA emphasized that only the last order or resolution completely disposing of the case can be the subject of an appeal. It noted that the subject of petitioners' appeal was only the RARAD Decision; they did not file a new notice of appeal from the Resolution denying their Motion for Reconsideration. The appellate court therefore ruled that the RARAD Decision had long become final because of the failure of petitioners to perfect their appeal.

The dispositive portion of the CA Decision reads:

WHEREFORE, the petition for review is DENIED. The Resolution dated October 10, 2006 as well as the Resolution dated January 10, 2007 respectively of DARAB are hereby AFFIRMED.[34]

On 11 November 2008, the CA denied petitioner's Motion for Reconsideration.[35] Hence, this Petition.

ISSUES

The essential issues to be resolved are as follows: (1) whether petitioners have the legal personality to assail the distribution of the subject land under the agrarian reform program; and (2) whether the agrarian adjudicator has jurisdiction over a petition for cancellation of title and reconveyance of agricultural land sequestered by or surrendered to the PCGG.

COURT RULING

We GRANT the petition.

Before delving into the substantive issues, we first address the procedural issue of whether the RARAD Decision has become final because of the failure of petitioners to perfect their appeal.

True, petitioners did not file a new notice of appeal after RARAD had disposed of DAR's Motion for Reconsideration. Contrary to respondents' claim, however, RARAD did not dismiss the petitioners' notice of appeal for being premature. Its Order[36] states:

This treats of private respondents' Notice of Appeal from the Decision dated August 27, 2003 which was duly countered by petitioners with an Opposition on the ground that there is a pending motion for reconsideration, hence, the notice of appeal is premature.

Finding that the notice of appeal is too early to be acted upon, the same is held in abeyance until the motion for reconsideration shall have been disposed of.[37]

Additionally, while the Motion for Reconsideration was filed on behalf of both the Malabanans and DAR, their common legal counsel subsequently withdrew his appearance for the Malabanans. His withdrawal was in light of the letter^[38] of the Malabanans informing him that they were intending to pursue their appeal separately from DAR. Notably, too, petitioners filed their Notice of Appeal after the Withdrawal of Appearance by their former legal counsel.

Suffice it to say that petitioners filed a timely Notice of Appeal. It did not lose validity merely because RARAD deferred action on it during the pendency of DAR's Motion for Reconsideration.^[39] Indeed, DARAB eventually accepted petitioners' appeal. The findings of both DARAB and the CA that petitioners failed to perfect their appeal are, therefore, wrong.

We now resolve the substantive issues.

Respondents have no legal standing
to assail the award of the subject
land to petitioners.

Fortich v. Corona^[40] ordains that farmer-beneficiaries who are not approved awardees of CARP have no legal standing to question the exclusion of an agricultural land from CARP coverage. This pronouncement is anchored on the rule that any person seeking legal relief must have a real or present substantial interest, as opposed to mere expectancy; or a future, contingent, subordinate, or consequential interest in the matter under litigation.^[41]

Simply put, the policy under the Constitution is that courts can only resolve actual controversies involving rights that are legally demandable and enforceable; judicial power cannot be invoked to settle mere academic issues or to render advisory opinions.^[42]

In *Samahang Magsasaka ng 53 Hektarya v. Mosquera*,^[43] a farmer's association challenged the exemption from land distribution of a 53-hectare property. On the issue of whether the individual members of the Samahan were real parties in interest, we ruled that those farmer-members could not be deemed to possess the legal personality to question the property's exclusion from CARP, unless two requirements are fulfilled: the actual approval by the DAR and the consequent grant of CLOAs and award of the disputed land to those members. The generation of CLOAs under their names was of no consequence; at best, they had a mere expectancy, which was inadequate to vest them with the requisite interest in the subject matter of the litigation.

In this case, respondents trace their alleged ownership of the disputed property to OCT No. 0-13. Their claim that the property was illegally acquired by the IRC is unsubstantiated. The CA correctly noted that the issue of whether the acquisition of the property by IRC was lawful or not was still undetermined by the proper tribunal. Without question, however, the last known owner of the land before it was surrendered to the PCGG was the IRC. In fact, the derivative titles under question cancelled the latter's title under TCT No. 28631, instead of OCT NO. 0-13. All things considered, there is yet no sufficient basis to say that Alfredo Restrivera was the previous owner of the land prior to its award to petitioners.

Respondents cannot rely solely on their father's title to assert ownership over the subject land. A title is merely evidence of ownership of the particular property described therein. Ownership is not the same as a certificate of title.^[44]

On the other hand, we cannot just disregard the existence of TCT No. 28631, which is under the name of the IRC. A Torrens certificate is the best evidence of ownership of registered land and serves as evidence of an indefeasible title to the property in favor of the person in whose name it was issued.^[45] In the absence of a definitive ruling that TCT No. 28631 was illegally procured, we can only take the titles presented in evidence at their face value.

At this point, respondents cannot claim ownership of the land, or any interest therein that could have been the subject of succession. Concomitantly, they have no legal standing to challenge the propriety of its distribution under CARP by virtue of their interest as Alfredo's compulsory heirs.

Neither can respondents claim to have any present substantive interest in the disputed property as preferred beneficiaries under paragraph 2 of the MOA between DAR and the PCGG on sequestered lands. The cited paragraph states:

[2.] The PCGG shall transfer to the Republic of the Philippines the titles to those agricultural lands defined in paragraph 1 above that have been voluntarily turned over or surrendered to the PCGG and whose titles can now be transferred to the Republic without the need of further adjudication by the Sandiganbayan. These lands are to be distributed by MAR to qualified applicants/beneficiaries in accordance with R.A. 3844 and other pertinent law, rules and regulations; provided that the preferential rights over these lands of laborers, farmers, wage earners and employees of Independent Realty Corporation and other registered owners of these lands at the time they were surrendered or turned over voluntarily to PCGG, who have been occupying and/or working on said lands shall be recognized and respected by all parties concerned.[46] (Emphases supplied)

The right recognized under the above paragraph is conditioned on possession of title and actual occupation of property. In respondents' case, the most they have established is that the land used to be registered under Alfredo's name.

On the other hand, Section 22 of R.A. 6657 reads:

SECTION 22. Qualified Beneficiaries. — The lands covered by the CARP shall be distributed as much as possible to landless residents of the same barangay, or in the absence thereof, landless residents of the same municipality in the following order of priority:

- (a) agricultural lessees and share tenants;
- (b) regular farm workers;
- (c) seasonal farmworkers;
- (d) other farmworkers;
- (e) actual tillers or occupants of public lands;
- (f) collectives or cooperatives of the above beneficiaries; and
- (g) others directly working on the land.

Provided, however, That the children of landowners who are qualified under Section 6 of this Act shall be given preference in the distribution of the land of their parents: and Provided, further, That actual tenant-tillers in the landholdings shall not be ejected or removed therefrom.

Beneficiaries under Presidential Decree No. 27 who have culpably sold, disposed of, or abandoned their land are disqualified to become beneficiaries under this Program.

A basic qualification of a beneficiary shall be his willingness, aptitude, and ability to cultivate and make the land as productive as possible. The DAR shall adopt a system of monitoring the record or performance of each beneficiary, so that any beneficiary guilty of negligence or misuse of the land or any support extended to him shall forfeit his right to continue as such beneficiary. The DAR shall submit periodic reports on the performance of the beneficiaries to the PARC.

If, due to the landowner's retention rights or to the number of tenants, lessees, or workers on the land, there is not enough land to accommodate any or some of them, they may be granted ownership of other lands available for distribution under this Act, at the option of the beneficiaries.

Farmers already in place and those not accommodated in the distribution of privately-owned lands will be given preferential rights in the distribution of lands from the public domain.(Emphases supplied)

The law, therefore, does not automatically vest preferential rights upon the children of landowners.[47] To avail themselves of this right, claimants must show that: (1) their parents owned the subject land; and (2) it has been determined in the proper proceeding that the claimants are qualified beneficiaries of the agrarian reform program. Proof of these circumstances, however, are utterly wanting in this case.

In sum, respondents failed to show any real or present substantial interest in the subject land. Indeed, procedural rules can be relaxed in the interest of justice, but the present case does not merit such leniency. The requirement that a party must have real interest in the case is not simply procedural; it is essential to the administration of justice.[48] For these reasons, we set aside the CA's finding that respondents have the legal personality to assail the award of the subject land to petitioners.

DARAB has no jurisdiction over the petition filed by respondents.

It is settled that for DARAB to have jurisdiction over a case, there must be an agrarian dispute or tenancy relationship existing between the parties.[49] There must be harmony between this settled principle and the rules that apply to the petition for the cancellation of CLOAs filed by respondents. The applicable set of rules is the 2003 DARAB Rules of Procedure, under which Section 1,[50] Rule II, grants DARAB and its adjudicators jurisdiction over cases involving the correction, partition, cancellation, secondary and subsequent issuances of CLOAs and Emancipation Patents (EPs) which are registered with the Land Registration Authority.

It is not sufficient that the controversy involves the cancellation of a CLOA already registered with the Land Registration Authority as in this case. For purposes of determining whether DARAB has jurisdiction, the central consideration is the existence of an agrarian dispute.[51]

Section 3 (d) of R.A. 6657 defines agrarian dispute as follows:

(d) Agrarian Dispute refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers associations or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements.

It includes any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee. (Emphases supplied)

In this case, respondents have not alleged any tenurial relationship with petitioners. Rather, their petition is centered on their supposed preferential right as farmer-beneficiaries and the suitability of the land for CARP coverage. These are matters falling under the primary and exclusive jurisdiction of DAR, which is supposed to determine and adjudicate all matters involving the implementation of agrarian reform.[52]

Section 2, Rule I of DAR Administrative Order No. 03, series of 2003,[53] defines, by enumeration, ALI cases over which the regional director has primary jurisdiction. These cases include, among others, those arising from or involving the classification and identification of landholdings for CARP coverage (including protests of and petitions for lifting that coverage); and the classification, identification, inclusion, exclusion, qualification, or disqualification of potential/actual farmer-beneficiaries.

The proceedings in ALI cases are commenced by the filing of an initiatory pleading or petition either before the

DAR Regional Office (DARRO) or the DAR Municipal Office (DARMO), depending on whether or not there has been a notice of CARP coverage.[54] After notice to all parties concerned, investigation and ocular inspection shall be conducted. The investigating officer may require the submission of position papers prior to the issuance of a decision.[55]

The question of whether the TCTs issued to petitioners should be cancelled hinges on whether the landholding is exempt from CARP coverage, which remains undetermined up this point.[56] As DARAB correctly pointed out in its Decision dated 28 April 2006, the investigation conducted by the regional director does not measure up to the proceedings and outcome described above. Hence, RARAD should not have acted on the petition. Under Section 5,[57] Rule II of the procedural rules on ALI cases, the petition should have been referred to the office of the DAR Secretary for the determination of pending ALI issues; specifically, whether the subject land was exempt from CARP coverage, and whether respondents were qualified and preferred farmer-beneficiaries.

Relevant to this case, too, is DAR Administrative Order No. 09-97[58] as amended. This issuance sets the guidelines for the recovery of lands turned over to DAR pursuant to E.O. 407,[59] but those lands were later found to be outside the coverage of CARP. Under these guidelines, the petition for reconveyance should be filed with the provincial, regional or national offices of DAR.[60] Moreover, the Order of Reconveyance should be issued by the regional director,[61] which can only be appealed to the DAR Secretary.[62]

Based on the above, we find that the Decision of RARAD was rendered without authority and jurisdiction; hence, it is void.

WHEREFORE, premises considered, the Petition for Review on Certiorari is GRANTED. The Court of Appeals Decision dated 20 June 2008 and Resolution dated 11 November 2008 in CA-G.R. SP No. 97787 are REVERSED and SET ASIDE.

The DARAB Decision dated 28 April 2006 is hereby AFFIRMED and REINSTATED. Moreover, the Office of the Secretary of the Department of Agrarian Reform is directed to expedite the resolution of this case.

SO ORDERED.

Leonardo-De Castro, Peralta,[*] Perlas-Bernabe, and Caguioa, JJ., concur.

[*] Designated additional member in lieu of J. Bersamin, per raffle dated 14 August 2013.

[1] Rollo, pp. 13-30. The CA Decision, dated 20 June 2008, was penned by Associate Justice Lucenito N. Tagle, with Associate Justices Amelita G. Tolentino and Normandie B. Pizarro concurring.

[2] CA rollo pp. 9-13; the DARAB Resolution was penned by Assistant Secretary Augusto P. Quijano and concurred in by Assistant Secretaries Edgar A. Igano and Delfin B. Samson, as well as acting Assistant Secretary Patricia Rualo-Bello. The other members of the Board, namely, OIC-Secretary Nasser R. Pangandaman, Undersecretary Nestor R. Acosta and OIC-Undersecretary Narciso B. Nieto did not take part in the Resolution.

[3] Id. at 62-76. The RARAD Decision, dated 27 August 2003, was penned by Regional Adjudicator Conchita C. Miñas.

[4] DARAB Records, Vol. I, pp. 11-12.

[5] Id. at 38; (letter dated 17 October 2002 from then PCGG Chairperson Haidee B. Yorac addressed to Mr. Boy Morales of La Liga Policy Institute). Chairperson Yorac wrote the letter in response to Mr. Morales' request for documents related to the transfer of ownership of the subject property to the IRC. The letter partly states:

"We regret to inform that records available with Independent Realty Corporation and the Presidential Commission on Good Government (PCGG) do not indicate the previous owners of these surrendered properties and the manner by which they were transferred in favor of IRC."

[6] Dated 23 February 1987; DARAB Records. Vol. II. p. 39.

[7] Rollo, p. 38

[8] CLOA Nos. 00569919 and 00596620.

[9] DARAB Records. Vol. I, pp. 20-22. The named owners were Nicanor Moreno Malabanan, Aurora Malabanan Manaig, Ronnie Moreno Malabanan, and Victorino Moreno Malabanan.

[10] Id. at 23-25. The named owners were Severino Sarmiento Malabanan, Raymundo Sarmiento Malabanan, Eufrocinia Sarmiento Malabanan. Eufrocila Malabanan Albuerne, and Donata Caparas Malabanan.

[11] Comprehensive Agrarian Reform Law (CARL).

[12] DARAB Records, Vol. I, pp. 2-10.

[13] Guidelines and Procedures Governing the Monitoring of Violations or Circumventions Committed by the Agrarian Reform Beneficiaries (ARBs), Providing Sanctions Therefor and Filing of Appropriate Administrative, Quasi-Judicial and/or Criminal Actions

[14] DARAB Records, Vol. I, at 13-16. The Report was dated 15 January 2003.

[15] Id. at 85-102, 103-120, 121-126.

[16] In *Sta. Rosa Realty Development Corp. v. Amante*, 493 Phil. 570, 606 (2005), the Court clarified that the jurisdiction of DAR under the Section 50 of R.A. 6657 is two-fold. The first aspect is essentially executive and pertains to the enforcement and administration of the laws. It covers those cases identified as Agrarian Law Implementation or ALI matters falling under the exclusive jurisdiction of the DAR Secretary under DAR Administrative Order No. 3, Series of 2003. The second aspect is quasi-judicial and involves the determination of rights and obligations of the parties in those cases enumerated over which the Agrarian Reform Adjudication Board or the DARAB has the exclusive original jurisdiction.

[17] CA rollo, pp. 75-76.

[18] Atty. Victor B. Baguilat of the Legal Assistance Division, DAR.

[19] DARAB Records. Vol. II, pp. 187-193.

[20] Id. at 203.

[21] Id. at 206.

[22] Id. at 217.

[23] Id. at 219-220

[24] Id. at 221.

[25] Id. at 223-224.

[26] Rollo, pp. 106-115; DARAB Records, Vol. III, pp. 64-73. Penned by Assistant Secretary Augusto P. Quijano and concurred in by Assistant Secretaries Edgar A. Igano and Delfin B. Samson, as well as acting Assistant

Secretary Patricia Rualo-Bello. The other members of the Board, namely, OIC-Secretary Nasser R. Pangandaman, Undersecretary Nestor R. Acosta and OIC-Undersecretary Narciso B. Nieto did not take part in the Decision.

[27] *Id.* at 115.

[28] DARAB Records, Vol. III, pp. 78-90.

[29] CA rollo, pp. 12-13.

[30] DARAB Records, Vol. I, p. 39; dated 29 November 2002.

[31] *Id.* at 41; dated 5 December 2002.

[32] DARAB Records, Vol. III, pp. 125-135.

[33] CA rollo, pp. 20-41.

[34] Rollo, p. 29.

[35] *Id.* at 10-11. The Motion for Reconsideration was filed on 15 July 2008 (CA rollo, pp. 273-288).

[36] Dated 10 November 2003.

[37] DARAB Records, Vol. II, pp. 217-218. Emphasis supplied.

[38] Dated 30 September 2003.

[39] But see *Ross Rica Sales Center, Inc. v. Spouses Ong*, 504 Phil. 304 (2005), where the Court held that the filing of the Motion for Reconsideration may be deemed as an effective withdrawal of the defective Notice of Appeal.

[40] 352 Phil. 461 (1998)(Decision) and 371 Phil. 672 (1999) (Resolution).

[41] *Garcia v. David*, 67 Phil. 279 (1939).

[42] CONSTITUTION, Art. VIII. Sec. I.

[43] 547 Phil. 560 (2007). See also *Sumalo Homeowners Association of Hermosa, Bataan v. Litton*, 532 Phil. 86 (2006).

[44] *Spouses Estacion v. DAR Secretary*, 729 Phil. 143 (2014).

[45] *Guizano v. Veneracion*, 694 Phil. 658 (2012).

[46] DARAB Records. Vol. II, p. 40.

[47] See *Samahan ng Magsasaka at Mangingisa ng Sitio Naswe, Inc. (SAMMANA) v. Tomas Tan*, G.R. No. 196028, 18 April 2016.

[48] *Samahang Magsasaka ng 53 Hektarya v. Mosquera*, *supra* note 42.

[49] *Cañas-Manuel v. Egano*, G.R. No. 198751, 19 August 2015, citing *Bumagat v. Arribay*, G.R. No. 194818, 9 June 2014, 725 SCRA 439; *Del Monte Philippines, Inc. Employees Agrarian Reform Beneficiaries Cooperative (DEARBC) v. Jesus Sangunay*, 656 Phil. 97 (2011); *Heirs of Rafael Magpily v. De Jesus*, 511 Phil. 14 (2005).

[50] SECTION I. Primary and Exclusive Original Jurisdiction. — The Adjudicator shall have primary and exclusive original jurisdiction to determine and adjudicate the following cases:

x x x x

1.6. Those involving the correction, partition, cancellation, secondary and subsequent issuances of Certificates of Land Ownership Award (CLOAs) and Emancipation Patents (EPs) which are registered with the Land Registration Authority;

xxxx

[51] *Sutton v. Lim*, 700 Phil. 67 (2012).

[52] Republic Act No. 6657, Sections 50 and 24 (as amended by Republic Act No. 9700).

[53] SECTION 2. ALI cases. These Rules shall govern all cases arising from or involving:

2.1. Classification and identification of landholdings for coverage under the agrarian reform program and the initial issuance of Certificate of Land Ownership Awards (CLOAs) and Emancipation Patents (EPs), including protests or oppositions thereto and petitions for lifting of such coverage;

2.2. Classification, identification, inclusion, exclusion, qualification, or disqualification of potential/actual farmer-beneficiaries;

2.3. Subdivision surveys of land under Comprehensive Agrarian Reform (CARP);

2.4. Recall, or cancellation of provisional lease rentals, Certificates of Land Transfers (CLTs) and CARP Beneficiary Certificates (CBCs) in cases outside the purview of Presidential Decree (PD) No. 816, including the issuance, recall, or cancellation of Emancipation Patents (EPs) or Certificates of Land Ownership Awards (CLOAs) not yet registered with the Register of Deeds;

2.5. Exercise of the right of retention by landowner;

2.6. Application for exemption from coverage under Section 10 of RA 6657;

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

2.8. Exclusion from CARP coverage of agricultural land used for livestock, swine, and poultry raising;

2.9. Cases of exemption/exclusion of fishpond and prawn farms from the coverage of CARP pursuant to RA 7881;

2.10. Issuance of Certificate of Exemption for land subject of Voluntary Offer to Sell (VOS) and Compulsory Acquisition (CA) found unsuitable for agricultural purposes;

2.11. Application for conversion of agricultural land to residential, commercial, industrial, or other non agricultural uses and purposes including protests or oppositions thereto;

2.12. Determination of the rights of agrarian reform beneficiaries to homelots;

2.13. Disposition of excess area of the tenant's/farmer-beneficiary's landholdings;

2.14. Increase in area of tillage of a tenant/farmer-beneficiary;

2.15. Conflict of claims in landed estates administered by DAR and its predecessors; and

2.16. Such other agrarian cases, disputes, matters or concerns referred to it by the Secretary of the DAR.

[54] DAR Administrative Order No. 03, Series of 2003, Rule III, Section 13 provides:

SECTION 13. Commencement of an action.

13.1. Without or prior to issuance of notice of CARP coverage — When the land in question has never been the subject of a notice of coverage, an ALI case involving said land shall commence upon filing of the initiatory pleading or application before the Regional Director or Provincial Agrarian Reform Officer (PARO).

13.1.1. Commencement at the DAR Regional Office (DARRO) — The DARRO shall docket the case and transmit the case folder to the PARO within five (5) working days from filing, with notice to all parties. Upon receipt, the PARO shall, within five (5) working days and with notice to all parties, transmit the case folder to the MARO who shall conduct the necessary mediation/conciliation proceedings.

13.1.2. Commencement at the DAR Provincial Office (DARPO) — The PARO shall docket the case and submit a case brief to the Regional Director within five (5) working days, with notice to all parties. Within the same

five (5) working-day period and with notice to all parties, the PARO shall transmit the case folder to the MARO who shall conduct the necessary mediation/conciliation proceedings.

13.2. After issuance of notice of coverage — Commencement shall be at the DAR Municipal Office (DARMO). When the applicant/petitioner commences the case at any other DAR office, the receiving office shall transmit the case folder to the DARMO or proper DAR office in accordance with the pertinent order and/or circular governing the subject matter. Only the real-party-in-interest may file a protest/opposition or petition to lift CARP coverage and may only do so within sixty (60) calendar days from receipt of the notice of coverage; a protesting party who receives the notice of coverage by newspaper publication shall file his protest / opposition / petition within sixty (60) calendar days from publication date; failure to file the same within the period shall merit outright dismissal of the case.

[55] DAR Administrative Order No. 03, Series of 2003, Rule III, Section 18 provides:

SECTION 18. Procedure.

18.1. Commencement. Except for applications for land use conversion and exemption/exclusion from CARP coverage which shall follow separate special rules, an ALI case shall commence with the filing of the proper application or initiatory pleading at the DARMO / DARPO / DARRO. In all instances, the MARO shall notify all tenants, leaseholders, farmworkers, and occupants of the subject land of the initiation of the case. Proof of notice to all the persons above-mentioned shall form part of the records of the case.

18.2. After notifying all parties, the MARO and Barangay Agrarian Reform Committee (BARC) shall exert exhaustive efforts at mediation and conciliation to persuade the parties to arrive at an amicable settlement or compromise.

18.3. The issue of whether or not the land is subject to coverage under PD 27 or RA 6657 shall not be the subject of compromise.

18.4. If mediation/conciliation fails, the MARO shall, within five (5) working days from termination thereof, transmit the case folder to the PARO with a written report explaining the reasons for the mediation/conciliation's failure, furnishing all the parties with a copy of the written report.

18.5. Investigation. The PARO, or any Investigating Officer or Committee which he or the Regional Director may designate, shall conduct investigations and perform whatever is necessary to achieve a just, expeditious, and inexpensive disposition of the case.

18.6. Record of proceedings. The proceedings shall be recorded by a stenographer. In the absence of an available stenographer, the Investigating Officer shall make a written summary of the proceedings, including the substance of the evidence presented which shall be attested to by the parties or their counsel and shall form part of the records of the case. Should any party or counsel refuse to sign, the reason for such refusal shall be noted therein.

18.7. Ocular Inspection.

18.7.1. After giving all parties reasonable notice of the ocular inspection schedule, ocular inspection shall proceed with or without the presence of any party who refuses to cooperate.

18.7.2. The ocular inspection team shall prepare an initial report which all attending parties and BARC representatives shall sign. If anyone refuses to sign, the ocular inspection team shall indicate the reason for such refusal in the initial report.

18.8. Position Papers. The Investigating Officer may require the parties to simultaneously submit their respective position papers and replies thereto. Within thirty (30) days from due date of the last pleading (unless special rules

provide for a different period), the Investigating Officer shall sign and submit his recommendation to the appropriate authority.

18.9. Draft Decision. At any time before the ALI case is decided, any party may submit a hard copy of a draft decision together with a diskette containing such draft written in any popular word-processing program, furnishing a copy thereof to all parties.

18.10. Decision. Pursuant to Section 51 of RA 6657, which provides that "any case or controversy before it shall be decided within thirty (30) days after it is submitted for resolution", the appropriate authority shall promulgate its decision within thirty (30) days from receipt of the Investigating Officer's recommendation.

[56] *Valcurza v. Tamparong, Jr.*, G.R. No. 189874, 4 September 2013, 705 SCRA 128.

[57] SECTION 5. Referral to Office of the Secretary (OSEC). — In the event that a case filed before the Adjudicator shall necessitate the determination of a prejudicial issue involving an agrarian law implementation case, the Adjudicator shall suspend the case and, for purposes of expediency, refer the same to the Office of the Secretary or his authorized representative in the locality.

Prejudicial issue is defined as one that arises in a case the resolution of which is a logical antecedent of the issue involved therein, and the jurisdiction over which pertains to the Office of the Secretary.

The prejudicial issue must be determinative of the case before the Board or the Adjudicator but the jurisdiction to try and resolve the question is lodged with the Office of the Secretary.

[58] Revised Rules And Regulations On A.O. No. 3, Series Of 1996. Re: Reconveyance Of Properties Turned-Over To DAR Pursuant To E.O. No. 407, As Amended, And Lands Voluntarily Offered Under Section 19 of R.A. No. 6657 But Found To Be Outside The Coverage of CARP.

[59] ACCELERATING THE ACQUISITION AND DISTRIBUTION OF AGRICULTURAL LANDS, PASTURE LANDS, FISHPONDS, AGRO-FORESTRY LANDS AND OTHER LANDS OF THE PUBLIC DOMAIN SUITABLE FOR AGRICULTURE.

[60] Item IV, No. 1 of the Guidelines states —

1. Any party in interest shall file a petition for reconveyance of a particular landholding, or portions thereof, with either the provincial, regional or national offices of the DAR citing their specific reasons for their request for reconveyance.

[61] Item IV, No. 5 of the Guidelines states —

5. Upon the issuance of the Order or Reconveyance by the RD, the DARPO shall undertake the following:
 - a. Conduct a segregation survey in case only portions of the land area covered by a title shall be reconveyed.
 - b. In case EPs and CLOAs have been generated but are not yet registered, cancel these through administrative proceedings. If EPs or CLOAs are already registered, these shall be cancelled through quasi-judicial/judicial proceedings.
 - c. Draft the Deed of Reconveyance, the amendment to the Deed of Transfer or the Letter of Rescission, as the case may be, and submit the same, together with all the supporting documents, to the official authorized to sign the reconveyance instrument.

The DAR office which previously signed the Deed of Transfer for the subject land and which is up to the present vested with the said authority, shall be the one authorized to sign the Deed of Reconveyance, amendment to the

Deed of Transfer, or Letter of Rescission. In the case of lands under Voluntary Offer to Sell (VOS), the PARO will sign the reconveyance instrument.

[62] Item V of the Guidelines states —

V. FILING/RESOLUTION OF MOTIONS AND APPEALS

Any party in interest who disagrees with a decision on reconveyance may file motions for reconsideration with the RD and an appeal to the Secretary in accordance with Section III of Administrative Order No. 9, Series of 1994 regarding the authority of all RDs to hear and decide all protests involving coverage of land under R.A. No. 6657 or P.D. No. 27 and defining the appeal process from the RDs to the Secretary.

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