

**J. MELLIZA ESTATE DEVELOPMENT COMPANY, INC., REPRESENTED
BY ITS DIRECTOR, ATTY. RAFAEL S. VILLANUEVA, PETITIONER, VS.
ROSENDO SIMOY, GREGORIO SIMOY AND CONSEJO SIMOY,
RESPONDENTS.**

G.R. No. 217943. June 08, 2016

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This petition for review under Rule 45 of the Rules of Court challenges the August 27, 2014 Decision[1] and the March 24, 2015 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 04944, which affirmed the July 10, 2009 Decision[3] and the January 25, 2010 Resolution[4] of the Office of the President (OP). The issuances of the OP reversed and set aside the June 20, 2005 Order[5] of the Secretary of the Department of Agrarian Reform (DAR) granting the application for retention filed by the petitioner, J. Melliza Estate Development Company, Inc. (petitioner).

The CA summarized the facts of the case as follows:

The present controversy arose from an application for retention filed by Melizza Estate Development Company, Inc., (petitioner) over a portion of the landholding situated at Barangay San Jose, San Miguel, Iloilo, identified as Lot No. 665, covered by Transfer Certificate of Title No. T-76786 containing an area of 87,313 square meters, or 8.7313 hectares and registered in the name of the petitioner.

The said lot was transferred to respondents Rosendo Simoy, Gregorio Simoy and Consejo Simoy, as evidenced by TCT No. EP-7881, TCT No. EP-7882, TCT No. EP-7880 and TCT No. EP - 7883, which were registered in the Register of Deeds for the Province of Iloilo on 30 August 1998, pursuant to Emancipation Patent (EP) Nos. A-112160, A-112161, A-112163, A- 112164-H issued by the Department of Agrarian Reform (DAR). Respondents were farmer-beneficiaries of the landholding chosen by the petitioner as its retention area under Presidential Decree No. 27. Hence, petitioner sought to cancel the said EPs on the ground that it applied to retain the land subject of the EPs.

The Municipal Agrarian Reform Office (MARO) of Malo, Iloilo, recommended the approval of the application for retention to which the Provincial Agrarian Reform Office (PARO) for Iloilo province concurred in an endorsement letter to the Regional Director of DAR Regional Office No. 6. In an Order, dated 22 May 2001, by the Regional Director, the latter upheld petitioner's right of retention and approved its chosen retention area by citing Section 6 of RA 6657 which provides for a five (5) hectare retention limit for landowners.

Consequently, respondents filed a Motion for Reconsideration on the ground that the petitioner had already availed of its right of conversion over the 55.01 hectares located at Barangay Jibao-an, Pavia, Iloilo, hence, it should be disqualified from other landholdings. However, the Motion was denied by the Regional Director in his Order dated 9 July 2001 ruling that the arguments advanced by the movants have already been considered and exhaustively discussed.

Subsequently, respondents filed their Notice of Appeal but the same was denied by the Regional Director in an Order of Finality dated 07 August 2001, on the ground that the appeal was filed out of time.

Aggrieved, respondents appealed their case to the Secretary of Agrarian Reform. In resolving the appeal, the DAR Secretary, in his Order dated 20 June 2005, still found the appeal devoid of merit and affirmed the findings of the Regional Director.

Undaunted, respondents filed their Memorandum on Appeal with the Office of the President on 21 July 2005. In a Decision, dated 10 July 2009, the Office of the President resolved to give due course to the appeal and reversed and set aside the Order issued by the DAR Secretary. Thereafter, petitioner moved for reconsideration of the decision of the Office of the President but the same was denied in a Resolution dated 25 January 2010.[6]

On August 27, 2014, the CA rendered a decision in favor of Rosendo, Gregorio and Consejo, all surnamed Simoy (respondents).

The CA explained that petitioner's insistence that the order of the DAR Regional Director granting its application for retention had already attained finality and, therefore, could no longer be reconsidered, reversed or modified, could not be sustained because: first, issues of retention were within the domain of the DAR Secretary, who, by virtue of his special competence, should be given an opportunity to settle the issues involved in a certain case; second, rules of procedure were construed liberally in administrative proceedings as administrative bodies were not bound by the technicalities applicable to courts of law; and third, the welfare of the landless farmers and farm workers received the highest consideration in promoting social justice, strict application of the rules might be brushed aside in the interest of substantial justice.

The CA, thus, declared that petitioner could not exercise the right of retention under Republic Act (R.A.) 6657, also known as The Comprehensive Agrarian Reform Law of 1988 (CARL), because, pursuant to Administrative Order (A.O.) No. 02, Series of 2003, petitioner had waived its right of retention by failing to exercise the same before its receipt of notice of coverage; by failing to manifest an intention to exercise its right to retain within sixty (60) calendar days from receipt of the notice of the CARL coverage; and by performing acts which constituted estoppel by laches. The CA added that it took petitioner more than eleven (11) years from the time of the issuance of Emancipation Patents (EPs) to file its application for retention on October 17, 2000. Therefore, granting its application for retention would be unjust and prejudicial to the farmer-beneficiaries who had already acquired vested rights of absolute ownership on the subject lot.

Hence, the CA disposed as follows:

WHEREFORE, with the foregoing disquisition, the instant petition is DISMISSED for lack of merit.

Accordingly, the assailed Decision dated 10 July 2009 and Resolution dated 25 January 2010 of the Office of the President in O.P. Case No. 05-H-250 are hereby AFFIRMED.

SO ORDERED.[7]

Hence, this petition, anchored on the following

GROUND

I

THE COURT OF APPEALS ERRED IN SUSTAINING THE DECISION OF THE OFFICE OF THE PRESIDENT THAT ALTHOUGH PETITIONER IS "ENTITLED TO RETENTION," YET "IT IS NOW BARRED TO EXERCISE SUCH RIGHT" BY REASON OF ALLEGED DELAY OR LACHES, WHEN THERE IS NO SUCH CIRCUMSTANCE PRESENT IN THE CASE, AS PETITIONER FILED ITS

APPLICATION FOR RETENTION PURSUANT TO THE PROVISION OF R.A. 6657 AND OF THE NEW RETENTION RIGHTS PRONOUNCED BY THE SUPREME COURT IN THE CASE OF "ASSOCIATION OF SMALL LANDOWNERS OF THE PHILS., INC., ET. AL V. HONORABLE SECRETARY OF AGRARIAN REFORM" AND FOLLOWING THE APPLICABLE DAR ADMINISTRATIVE ORDER ON THE MATTER.

II

THE COURT OF APPEALS ERRED IN DISREGARDING THE DECISIONS OF THE DAR REGIONAL DIRECTOR AND THE DAR SECRETARY IN THE EXERCISE OF THEIR PRIMARY JURISDICTION AND COMPETENCE AS ADMINISTRATIVE BODIES SPECIALIZED IN IMPLEMENTING AGRARIAN REFORM LAWS WHEN IT GRANTED PETITIONER RETENTION RIGHTS, INSTEAD OF RESPECTING THEIR DECISION IN DUE RESPECT TO THE EXPRESS PROVISION OF SECTION 54 OF R.A. 6657 THAT "THE FINDINGS OF FACT OF THE DAR SHALL BE FINAL AND CONCLUSIVE IF BASED ON SUBSTANTIAL EVIDENCE."

III

CONSEQUENTLY, THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE OFFICE OF THE PRESIDENT IN DENYING PETITIONER THE EXERCISE OF ITS RETENTION RIGHTS, INSTEAD OF SUSTAINING THE EARLIER DECISIONS OF THE REGIONAL DIRECTOR AND THE DAR SECRETARY.[8]

Expounding on the foregoing, petitioner argues that landholders, who were unable to exercise their right of retention under Presidential Decree (P.D.) No. 27, were given a new right of retention by R.A. No. 6657, or the CARL; that this new retention right was confirmed by the Court in its decision in *Association of Small Landowners of the Phils., Inc. v. Secretary of Agrarian Reform*[9] (Small Landowners); that it had seasonably availed of such retention rights by filing its application on October 17, 2000, which date was within the sixty (60)-day period from the issuance of DAR A.O. No. 05, Series of 2000, issued on August 30, 2000; that the CA had erroneously agreed with the OP that there was delay or laches on the part of petitioner as the application was not filed within sixty (60) days from receipt of the "Notice of Coverage," under DAR A.O. No. 02-03; that the CA erroneously applied A.O. No. 02-03, and not A.O. No. 05-00, in affirming the decision of the OP; that the filing, processing and approval of petitioner's application for retention all happened during the effectivity of A.O. No. 05-00; that A.O. No. 02-03 was only issued on January 16, 2003 at least two (2) years after the date of the filing of the application and of its approval; that A.O. 02-03 cannot have retroactive effect on petitioner's application; that the "Notice of Coverage" procedure does not apply to petitioner's application; that respondents have not yet acquired a vested right of ownership over the subject lot after having complied with their obligation to pay their amortization; and that the issuance of the EPs in the name of respondents was not a bar to the granting of petitioner's retention rights.

Respondents' Counter-Position

Respondents counter that although it is true that a landowner who has not availed of his right of retention under P.D. No. 27 may avail of such right under R.A. No. 6657 in light of the ruling of the Court in *Small Landowners*, which was reiterated in *Daez v. Court of Appeals*[10] (Daez), this is still subject to the condition that the landowner is qualified to such right of retention; that petitioner was not qualified because it owned more than fifty (50) hectares of landholding; that the ruling of the Court in the case of *Heirs of Juan Grino, Sr. rep. by Remedios C. Grino vs. DAR (Griño)*[11] is applicable in this case; that petitioner pointed out in its Comment filed before the CA that it had 188.3586 hectares of landholding and only six (6) hectares was subject of the Operation Land Transfer (OLT); that petitioner had still 182.3586 hectares remaining; that petitioner had already 68.2150 hectares while its stockholders had a total 135.8317 hectares of landholdings; and that the issue of whether or not

petitioner timely filed its application for retention on October 17, 2000 is no longer important because the petitioner was not qualified for retention rights due to its vast landholdings.

All the arguments presented by both parties boil down to this lone issue of whether or not the CA erred in denying petitioner's application for land retention.

The Court's Ruling

The petition lacks merit.

Right of retention expressly recognized
and enshrined in the 1987 Constitution

The 1987 Constitution expressly recognizes the landowner retention rights under Article XIII, Section 4, to wit:

Section 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary land-sharing.[12]

P.D. No. 27 and R.A. No. 6657

In the case of *Heirs of Sandueta v. Robles*[13] (*Sandueta*), the Court expounded on the concept, nature, purpose, restrictions and coverage or applicability of the right of retention.

The right of retention, as protected and enshrined in the Constitution, balances the effects of compulsory land acquisition by granting the landowner the right to choose the area to be retained subject to legislative standards. Necessarily, since the said right is granted to limit the effects of compulsory land acquisition against the landowner, it is a prerequisite that the land falls under the coverage of the OLT Program of the government. If the land is beyond the ambit of the OLT Program, the landowner need not — as he should not — apply for retention since the appropriate remedy would be for him to apply for exemption. As explained in the case of *Daez v. CA* (*Daez*):

Exemption and retention in agrarian reform are two (2) distinct concepts.

P.D. No. 27, which implemented the Operation Land Transfer (OLT) Program, covers tenanted rice or corn lands. The requisites for coverage under the OLT program are the following: (1) the land must be devoted to rice or corn crops; and (2) there must be a system of share-crop or lease-tenancy obtaining therein. If either requisite is absent, a landowner may apply for exemption. If either of these requisites is absent, the land is not covered under OLT. Hence, a landowner need not apply for retention where his ownership over the entire landholding is intact and undisturbed.

If the land is covered by the OLT Program which hence, renders the right of retention operable, PD 27 — issued on October 21, 1972 — confers in favor of covered landowners who cultivate or intend to cultivate an area of their tenanted rice or corn land the right to retain an area of not more than seven (7) has thereof. Subsequently, or on June 10, 1998, Congress passed R.A. 6657 which modified the retention limits under PD 27. In particular, Section 6 of RA 6657 states that covered landowners are allowed to retain a portion of their tenanted agricultural land not, however, to exceed an area of five (5) has. and, further thereto, provides that an additional three (3) has. 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. In the case of *Heirs of Aurelio Reyes v. Garilao* (*Reyes*), however, the Court held

that a landowner's retention rights under RA 6657 are restricted by the conditions set forth in LOI 474 issued on October 21, 1976 which reads:

WHEREAS, last year I ordered that small landowners of tenanted rice/corn lands with areas of less than twenty-four hectares but above seven hectares shall retain not more than seven hectares of such lands except when they own other agricultural lands containing more than seven hectares or land used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families;

WHEREAS, the Department of Agrarian Reform found that in the course of implementing my directive there are many landowners of tenanted rice/corn lands with areas of seven hectares or less who also own other agricultural lands containing more than seven hectares or lands used for residential, commercial, industrial or other urban purposes where they derive adequate income to support themselves and their families;

WHEREAS, it is therefore necessary to cover said lands under the Land Transfer Program of the government to emancipate the tenant-farmers therein.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, do hereby order the following:

1. You shall undertake to place under the Land Transfer Program of the government pursuant to Presidential Decree No. 27, all tenanted rice/corn lands with areas of seven hectares or less belonging to landowners who own other agricultural lands of more than seven hectares in aggregate areas or lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families.

2. Landowners who may choose to be paid the cost of their lands by the Land Bank of the Philippines shall be paid in accordance with the mode of payment provided in Letter of Instructions No. 273 dated May 7, 1973.

Based on the above-cited provisions, it may be readily observed that LOI 474 amended PD 27 by removing any right of retention from persons who own:

(a) other agricultural lands of more than seven (7) has. in aggregate areas; or

(b) lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families.

To clarify, in *Santiago v. Ortiz-Luis*, the Court, citing the cases of *Ass'n. of Small Landowners* and *Reyes*, stated that while landowners who have not yet exercised their retention rights under PD 27 are entitled to new retention rights provided for by RA 6657, the limitations under LOI 474 would equally apply to a landowner who filed an application under RA 6657.

xxx

Nevertheless, while the CA properly upheld the denial of the petition for retention, the Court must point out that the November 24, 2009 DARCO Order inaccurately phrased Romulo Sandueta's entitlement to the remaining 14.0910-hectare landholding, outside of the 4.6523-hectare subject portion, as a vestige of his retention right. Since the 14.0910-hectare landholding was not shown to be tenanted and, hence, outside the coverage of the OLT Program, there would be no right of retention, in its technical sense, to speak of. Keeping with the Court's elucidation in *Daez*, retention is an agrarian reform law concept which is only applicable when the land is covered by the OLT Program; this is not, however, the case with respect to the 14.0910-hectare landholding. Thus, if only to correct any confusion in terminology, Romulo Sandueta's right over the 14.0910-hectare landholding should not be deemed to be pursuant to any retention right but rather to his ordinary right of ownership as it appears from the findings of the DAR that the landholding is not covered by the OLT Program.[14] [Emphases Supplied]

Petitioner not entitled to exercise its retention right over the subject land

In this case, the piece of land that was the subject of retention, measuring 87,313 square meters or 8.7313 hectares and registered in petitioner's name, was transferred to respondents and registered in the Register of Deeds, Province of Iloilo, on August 30, 1998, pursuant to the EPs issued by the DAR. Respondents were farmer-beneficiaries of the landholding chosen by petitioner as its retention area under P.D. No. 27.

At this point, petitioner basically contends that it is entitled to new retention rights under R.A. No. 6657 and based on the decision of the Court in *Small Landowners* and *Daez* cases. Respondents, on the other hand, argue that the petitioner should not be granted retention rights because it has still vast landholdings or more than enough properties in its name.

Respondents are correct.

Records show that based on the Order[15] of the Regional Director of DAR Regional Office No. 6, dated May 22, 2001, petitioner submitted certifications, among others, to support its application for retention, dated October 17, 2000, which included the certification, dated April 3, 2001, issued by the Office of the City Assessor of Iloilo City and the certification, dated April 4, 2001, issued by the Office of the Provincial Assessor of the Province of Iloilo, confirming that petitioner had no agricultural lands registered in its name in the city and province of Iloilo. The Order[16] of the DAR Secretary, dated June 20, 2005, however, explicitly stated that petitioner had aggregate agricultural landholdings of 68.2140 hectares covered by the following Transfer Certificates of Title (TCTs):

- TCT No. 76779 (2.6884 has.)
- TCT No. 76780 (.2894 ha.)
- TCT No. 76781 (.4791 has.)
- TCT No. 76782 (.1934 ha.)
- TCT No. 76783 (6.3882 has.)
- TCT No. 76784 (1.0739 ha.)
- TCT No. 76785 (2.3539 has.)
- TCT No. 76786 (8.7313 has.)
- TCT No. 76787 (1.5738 has.)
- TCT No. 76788 (39. 4806 has.)
- TCT No. 76789 (.9943 ha.)

All these lands were placed under the OLT program of the government.

This fact has been affirmed by the electronic copies of the TCTs[17] on record submitted by no less than the respondents. All the said TCTs are still in the name of J. Melliza Estates Development Company, Inc. and existing in the Register of Deeds of the Province of Iloilo. Among the said TCTs, only TCT No. 76785 has been cancelled. Moreover, respondents claim that aside from this 68.2140 landholding of petitioner, six (6) of its corporate stockholders have total landholdings of 1, 358, 317 square meters or 135.8317 hectares embraced in one (1) title - TCT No. T-66933 issued on September 1, 1971.

The Court agrees with respondents that petitioner has more than enough properties registered in its name. Of the total landholdings of petitioner and that of its corporate stockholders, only eight (8) hectares have been subjected to the OLT. Even if the land areas owned by its corporate stockholders would be excluded, petitioner still has 68.2140 hectares in its name. Its vast land ownership of 68.2140 definitely disqualifies it from exercising its right of retention over the subject lands under P.D. No. 27 and R.A. No. 6657.

Although petitioner is correct in saying that a landowner who failed to exercise his right of land retention may do

so under R.A. No. 6657, such landowner must, nevertheless, be qualified to retain land. Unfortunately, petitioner in this case is not qualified to retain the subject land because it has 68.2140 hectares of collective landholdings as evidenced by the electronic copies of the TCTs on record. As it is not entitled to retain land under the combined application of P.D. No. 27 and R.A. No. 6657, it is also disqualified to retain land under R.A. No. 6657.

The case of *Pangilinan v. Balatbat*[18] applies. In the said case, petitioner filed a petition for cancellation of Certificates of Land Transfer (CLTs) issued in favor of his tenants pursuant to P.D. No. 27. The Court wrote:

In this case, the DARAB and the Court of Appeals agreed that respondents' total landholding is 25.2548 hectares, and that 9.8683 hectares thereof was riceland, which was subjected to Operation Land Transfer, while 15.3864 hectares was sugarland. In addition, the PARAD and the DARAB found that the 15.3864 hectares of sugarland was subdivided by respondents into a 4.8836 subdivision lot to support themselves and their family; hence, under LOI No. 474 and Administrative Order No. 4, series of 1991, the PARAD and the DARAB held that respondents are no longer entitled to retain seven hectares of the land subject to Operation Land Transfer. The decisions of the PARAD and the DARAB are supported by the Court's ruling in *Heirs of Aurelio Reyes v. Garilao* cited above. As the PARAD and the DARAB found that respondents are disqualified to retain the parcel of land, which is the subject matter of this case, there was no ground to cancel the emancipation patent of petitioner; hence, the DARAB affirmed the decision of the PARAD dismissing respondents' complaint for lack of merit.[19] [Emphases Supplied]

Also in the cited case of *Sandueta*, the Court did not favor retention when the landowner had more than what could be kept. Thus:

In this case, records reveal that aside from the 4.6523-hectare tenanted riceland covered by the OLT Program, i.e. the subject portion, petitioners' predecessors-in-interest, Sps. Sandueta, own other agricultural lands with a total area of 14.0910 has_which therefore triggers the application of the first disqualifying condition under LOI 474 as above-highlighted. As such, petitioners, being mere successors-in-interest, cannot be said to have acquired any retention right to the subject portion. Accordingly, the subject portion would fall under the complete coverage of the OLT Program hence, the 5 and 3-hectare retention limits as well as the landowner's right to choose the area to be retained under Section 6 of RA 6657 would not apply altogether.[20] [Emphasis and Underscoring Supplied]

Considering that petitioner failed to qualify for retention, there is no need to discuss the other issues raised.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, and Leonen, JJ., concur.
Brion, J., on official leave.

[1] Rollo, pp. 66-78. Penned by Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Ramon Paul L. Hernando and Marilyn B. Lagura-Yap.

[2] Id. at 92-96.

[3] Id. at 206-210.

[4] Id. at 168-170.

[5] Id. at 183-188.

[6] Id. at 67-68.

[7] Id. at 78.

[8] Id. at 40-41.

[9] 256 Phil. 777 (1989).

[10] 382 Phil. 742 (2000).

[11] 526 Phil. 808 (2006).

[12] Department of Agrarian Reform v. Carriedo, G.R. No. 176549, January 20, 2016.

[13] 721 Phil. 883 (2013).

[14] Id. at 890-894.

[15] Rollo, pp. 195-199.

[16] Id. at 200-205.

[17] Id. at 264-325.

[18] 694 Phil. 605 (2012).

[19] Id. at 634 (2012).

[20] Supra note 15, at 893-894 (2013).

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