

**ENGRACIA VINZONS-MAGANA, PETITIONER, VS. HONORABLE
CONRADO ESTRELLA IN HIS CAPACITY AS MINISTER OF AGRARIAN
REFORM, SALVADOR PEJO, AS REGIONAL DIRECTOR, MINISTRY OF
AGRARIAN REF...***G.R. No. 60269. September 13, 1991*

Ponente: PARAS, J.

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Petitioner challenges in this petition for prohibition with prayer for restraining order the validity and constitutionality of Letter of Instructions No. 474 and Memorandum Circular No. 11, Series of 1978 enforced by the then Minister and the Regional Director of the Ministry of Agrarian Reform and likewise seeks the cancellation of Certificate of Land Transfer No. 0-046145 issued to Domingo Paitan by the deposed President Ferdinand Marcos pursuant to Presidential Decree No. 27.

The records show that petitioner Magana is the owner of a parcel of riceland situated in the barrio of Talisay, Camarines Norte. The said riceland was tenanted by the late Domingo Paitan, husband of private respondent herein, Juana Vda. de Paitan, under an agricultural leasehold agreement. On October 20, 1977, Magana filed a petition for the termination of the leasehold agreement allegedly due to (1) non-payment of rentals; (2) inability and failure of Domingo Paitan to do the tilling and cultivation of the riceland due to his long illness; and (3) subleasing of the landholding to third parties (Rollo, p. 2). On June 2, 1978, the former Presiding Judge of the Court of Agrarian Relations, Judge Juan Llaguno, referred the case to the Secretary of the Department of Agrarian Reform for certification as to whether or not it was proper for trial in accordance with Presidential Decree No. 316 (Ibid., pp. 10-11), but said office failed to act upon the request for certification, for a period of more than three (3) years. Instead on July 10, 1980, the riceland was placed under the Land Transfer Program by virtue of Memorandum Circular No. 11, Series of 1978, which implemented Letter of Instructions No. 474, which placed all tenanted rielands with areas of seven hectares or less belonging to landowners who own agricultural lands of more than seven hectares in aggregate areas under the Land Transfer Program of the government. The prescribed procedures therein were subsequently undertaken and thereafter, on July 10, 1980, a certificate of Land Transfer was finally awarded in favor of Domingo Paitan. As a consequence thereof, the rentals were no longer paid to Magana but were deposited instead with the Land Bank and credited as amortization payments for the riceland. Apparently aggrieved by this turn of events, Magana took the present recourse.

As earlier mentioned, the Court is now asked to resolve the constitutionality of Memorandum Circular No. 11, Series of 1978, and Letter of Instructions No. 474.

The petition is devoid of merit.

The constitutionality of P.D. No. 27 from which Letter of Instructions No. 474 and Memorandum Circular No. 11, Series of 1978 are derived, is now well settled (*Chavez v. Zobel*, 55 SCRA 26 [1974]; *Gonzales v. Estrella*, 91 SCRA 292 [1979]; *Zurbano v. Estrella*, 137 SCRA 334, 335 [1985]; *Ass. of Small Landowners in the Philippines*,

Inc. v. Secretary of Agrarian Reform, 175 SCRA 366 [1989]).

More specifically, this Court also upheld the validity and constitutionality of Letter of Instructions No. 474 which directed then Secretary of Agrarian Reform Conrado Estrella to "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". It was held that LOI 474 is neither a class legislation nor does it deprive a person of property without due process of law or just compensation (*Zurbano v. Estrella*, 137 SCRA 333 [1985]). Moreover, LOI 474 was duly published in the Official Gazette dated November 29, 1976 and has therefore complied with the publication requirement as held by this Court in *Tañada v. Tuvera* (146 SCRA 446 [1986]; *Assn. of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, (175 SCRA 369 [1989])).

As to the constitutionality of DAR Memo Circular No. 11, it is evident that DAR Memo Circular No. 11 merely implements LOI 474 whose constitutionality has already been established, clarifying for DAR personnel the guidelines set for under said LOI 474 (Rollo, p. 111). Moreover, it is an elementary rule in administrative law that administrative regulations and policies enacted by administrative bodies to interpret the law which they are entrusted to enforce, have the force of law and are entitled to great respect (*Rizal Empire Ins. Group and/or Corpus, Sergio v. NLRC, et al.*, G.R. No. 73140, May 29, 1987).

The main thrust of this petition is that the issuance of Certificate of Land Transfer to Domingo Paitan without first expropriating said property to pay petitioner landowner the full market value thereof before ceding and transferring the land to Paitan and/or heirs, is invalid and unconstitutional as it is confiscatory and violates the due process clause of the Constitution (Rollo, p. 4).

The issue of the constitutionality of the taking of private property under the CARP Law has already been settled by this Court holding that where the measures under challenge merely prescribe the retention limits for landowners, there is an exercise of police power by the government, but where to carry out such regulation, it becomes necessary to deprive such owners of whatever lands they may own in excess of the maximum area allowed, then there is definitely a taking under the power of eminent domain for which payment of just compensation is imperative. To be sure, the determination of just compensation is a function addressed to the courts of justice and may not be usurped by any branch or official of the government (*Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, 175 SCRA 373 [1989]).

It must be stressed, however, that the mere issuance of the certificate of land transfer does not vest in the farmer/grantee ownership of the land described therein. At most, the certificate merely evidences the government's recognition of the grantee as the party qualified to avail of the statutory mechanisms for the acquisition of ownership of the land titled by him as provided under Presidential Decree No. 27. Neither is this recognition permanent nor irrevocable. Thus, failure on the part of the farmer/grantee to comply with his obligation to pay his lease rentals or amortization payments when they fall due for a period of two (2) years to the landowner or agricultural lessor is a ground for forfeiture of his certificate of land transfer (Section 2, P.D. No. 816; *Pagtalunan v. Tamayo*, G.R. No. 54281, March 19, 1990).

This Court has therefore clarified, that it is only compliance with the prescribed conditions which entitles the farmer grantee to an emancipation patent by which he acquires the vested right of absolute ownership in the landholding — a right which has become fixed and established and is no longer open to doubt and controversy. At best the farmer/grantee prior to compliance with these conditions, merely possesses a contingent or expectant

right of ownership over the landholding (Ibid.).

Under the foregoing principles, a reading of Section 16 (d) of the CARP law will readily show that it does not suffer from arbitrariness which makes it constitutionally objectionable. Although the proceedings are described as summary, the landowner and other interested parties are nevertheless allowed an opportunity to submit evidence on the real value of the property. But more importantly, such determination of just compensation by the DAR, as earlier stated is by no means final and conclusive upon the landowner or any other interested party for Section 16 (f) clearly provides: "Any party who disagrees with the decision may bring the matter to the court of proper jurisdiction for final determination of just compensation." For obvious reasons, the determination made by the DAR is only preliminary unless accepted by all parties concerned. Otherwise, the courts of justice will still have the right to review with finality the said determination in the exercise of what is admittedly a judicial function (Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform, supra, pp. 380-382).

Indeed, the delay in the preparation of the proper certification by the MAR field office to the Court of Agrarian Relations as to whether or not the case was proper for trial, is unfortunate and the officer concerned is under investigation (Rollo, pp. 41-42). It will, however, be observed that from the outset under P.D. No. 27, the tenant-farmer as of October 21, 1972 has already been deemed in a certain sense, to be the owner of a portion of land, subject of course, to certain conditions (Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform, supra, p. 390). In fact, it appears that petitioner Magana was not unaware that the land in question previous to the filing of the CAR case on October 20, 1977, had already been identified as subject of land transfer. It also appears that on September 20, 1976 Paitan had already been identified to be cultivating the land to rice as tenant of petitioner and that his landholding was the subject of land tenure survey and was found to be proper for OLT coverage under Presidential Decree No. 27 (Rollo, pp. 41-42).

In any event, as already discussed, the proceedings herein are merely preliminary and petitioner Magana is not without protection. Should she fail to agree on the price of her land as fixed by the DAR, she can bring the matter to the court of proper jurisdiction. Likewise, failure on the part of the farmer/grantee to pay his lease rentals or amortization payments for a period of two (2) years is a ground for forfeiture of his certificate of land transfer.

PREMISES CONSIDERED, the petition is DISMISSED without prejudice to petitioner's filing of the proper action for the determination of just compensation in the proper forum.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

Feliciano and Sarmiento, JJ., on leave.

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