

THE TENANTS OF THE ESTATE OF DR. JOSE SISON, REPRESENTED FERNANDO CAYABYAB, PETITIONERS, VS. THE HON. COURT OF APPEALS; SECRETARY PHILIP ELLA JUICO OF THE DEPARTMENT OF AGRARIAN...

G.R. No. 93045. June 29, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

This is a petition for review of the decision dated March 29, 1990 of the Court of Appeals upholding an order of the Secretary of Agrarian Reform, Philip Ella Juico, setting aside the previous orders of his predecessors who had issued certificates of land transfer to the tenants of the rice and corn lands of the late Dr. Jose Sison without due regard for the right of his legal heirs to retain ownership of their shares if they did not own more than seven (7) hectares of rice or corn land.

Pursuant to the Operation Land Transfer Program of the Government under Presidential Decree No. 27, certificates of land transfer were issued by the Ministry of Agrarian Reform to the petitioners, tenants of the Estate of Dr. Jose Sison, for their respective areas of cultivation. Upon discovering that certificates of land transfer were being issued to the petitioners, the heirs of Dr. Sison protested to the then Minister of Agrarian Reform, Conrado Estrella, who ordered that the certificates of land transfer be marked, "UNDER PROTEST."

Minister Estrella ordered an investigation of the case. The investigation report dated November 17, 1980, revealed that the landholdings of the late Dr. Jose Sison at Bayambang, Pangasinan, were subdivided among his heirs pro-indiviso under a Deed of Extrajudicial Partition dated April 2, 1966. Consequently, the acting MAR District Officer of Lingayen, Pangasinan, recommended the cancellation of the certificates of land transfer that had been issued to the petitioners-tenants.

However, a Reinvestigation Report, dated October 8, 1981 recommended that the landholdings be included in the Operation Land Transfer. This was affirmed in a second Reinvestigation Report dated February 9, 1982. Still another (third) Reinvestigation Report, dated September 29, 1986, affirmed the previous recommendation that the landholdings of the Heirs be covered by the Operation Land Transfer.

On February 17, 1987, then Minister Heherson Alvarez dismissed the petition filed by Manuel Sison, as representative of all the Heirs of Dr. Sison, for exemption of their landholdings from the coverage of Operation Land Transfer. The heirs' Motion for Reconsideration of said Order was denied on July 6, 1987.

On December 8, 1987, the heirs reiterated their request for reconsideration when Secretary Philip Ella Juico succeeded Secretary Alvarez. They stressed the fact that their individual landholdings were too small, not exceeding 7 hectares each, to come under the coverage of the Operation Land Transfer.

After ordering a reinvestigation of the landholdings of the individual heirs, an order was issued on September 7, 1988 by Secretary Juico, modifying the orders of his predecessors. He ruled that the ricelands of Consuelo S.

Nazareno and Peter Sison are exempt from the Operation Land Transfer and that Elisa S. Reyes, Renato Sison, Jose Sison, Josefina S. Zulueta and Jaime Sison, are entitled to retain not more than seven (7) hectares of their ricelands, since they are not owners of more than seven (7) hectares of other lands, and that Alfredo Sison and Manuel Sison are not entitled to retention or exemption of their ricelands from the Operation Land Transfer because they each own more than seven (7) hectares of other agricultural land.

The tenants filed on October 27, 1988 a motion for reconsideration which the Heirs of Dr. Sison opposed. On February 20, 1989, an order was issued by Secretary Juico denying the motion for reconsideration.

Petitioners sought relief in the Court of Appeals which rendered judgment on March 29, 1990, dismissing their petition for certiorari. Hence, this petition for review, alleging:

1. that the order dated September 7, 1988, of respondent Secretary Philip Ella Juico, reconsidering and reversing the orders of his predecessors dated February 17, 1987 and July 6, 1987, violates the rule on estoppel, which prohibits the resurrection of a case after it has become final and executory;
2. that the respondents Heirs of Dr. Jose Sison having failed to file any application for retention within the period required by law, and having filed their intentions to apply for retention and/or exemption only on March 13, 1987, which was beyond the period required by law, are estopped and totally barred from claiming such retentions or exemptions;
3. that even assuming that the said Heirs of Dr. Jose Sison are still entitled to file such applications for retention and/or exemption, still they are disqualified by law to be granted the same under the provisions of P.D. 27, in relation to LOI 474, which grant such retentions or exemptions only "if such landowner is cultivating such area or will now cultivate it" (p. 6, Rollo); and
4. that the Secretary of Agrarian Reform had no more authority or jurisdiction to cancel the Certificates of Land Transfer after they have been issued to the tenants beneficiaries.

The petition has no merit.

Petitioners herein question the propriety and legality of the order of former Secretary Philip Ella Juico of the Department of Agrarian Reform dated September 7, 1988, reversing and modifying the orders of his predecessors which allegedly had attained finality after the lapse of more than five (5) months since the order sought to be reconsidered therein contained a proviso that "so far as this Office is concerned, this case is considered already closed" (p. 26, Rollo). Respondent Secretary allegedly violated the rule on estoppel, which prohibits the resurrection of a case after the decision has become final and executory.

The first and fourth grounds of the petition for review are not well-taken. The orders for the issuance of Certificates of Land Transfer to the petitioners had not become final and executory because the certificates had been marked "under protest" on orders of Secretary Estrella.

The Court of Appeals correctly observed that the technical rules of court practice and procedure do not apply to administrative proceedings in the Department (formerly Ministry) of Agrarian Reform:

"x x x In the present case, respondent Secretary was not in estoppel when it reconsidered the previous ruling of his predecessor, because the latter's ruling is plainly and directly against the law. As the order of September 7, 1988, stated, and to repeat, the concerned heirs are entitled under the law to a retention of seven (7) hectares of agricultural lands which is mandatory and the office had no discretion to alter the disposition on the retention limits accorded by law to the landowners. No one, not even the petitioner's tenants, nor any court of justice, can deprive or deny the land owners of the retention of seven (7) hectares which the law has reserved for them. Otherwise, the law would be set to naught or would lose its very reason for being. Besides, there is no administrative rule or regulation, and Our attention has not been called to it, which would preclude the

Secretary of Agrarian Reform, to change the decision of his predecessor if the ruling is patently against the law; on the contrary, justice and equity demand, that the wrong should be righted and the error should not be made to prevail over what is correct and legal. x x x." (p. 22, Rollo.)

The failure of the private respondents to apply for retention of seven (7) hectares each of their agricultural landholdings did not constitute an estoppel or waiver of their respective right of retention. The omission was cured by their timely protest against the issuance of the certificates of land transfer to the petitioners. In the Ist Indorsement by Gregorio Saperia, Legal Officer of the Kagawarang Pangsakahan, it was noted that as early as December 20, 1973, the Heirs of Dr. Jose Sison had been seeking exemption of their landholdings from the Operation Land Transfer.

Whether or not each of the Heirs of Dr. Jose Sison owns more than seven (7) hectares of riceland and other agricultural lands, is a factual issue which we generally do not review. We are bound by Secretary Juico's finding, affirmed by the Court of Appeals, that their respective landholdings are as follows:

"Riceland Other Agricultural Lands

"1. Elisa S. Reyes 9.3370 Has. 5.3135 Has.

"2. Consuelo S. Nazareno 2.4972 Has. 6.1460 Has.

"3. Alfredo Sison 5.4584 Has. 9.1935 Has.

"4. Renato Sison 9.4091 Has. 5.2435 Has.

"5. Peter Sison 4.6663 Has. 5.3135 Has.

"6. Jose Sison 9.4069 Has. 5.2435 Has.

"7. Josefina S. Zulueta 9.4066 Has. 5.2435 Has.

"8. Manuel Sison 2.4972 Has. 12.1529 Has.

"9. Jaime Sison 9.1496 Has. 5.2435 Has."

(p. 19, Rollo.)

Secretary Juico and the Court of Appeals correctly ruled that:

"Consequently, the landholdings of Consuelo and Peter, are exempted from the OLT Coverage, and Elisa, Renato, Jose, Josefina and Jaime are entitled to a retention of not more than seven (7) hectares of their ricelands since they are not the owners of more than seven (7) hectares of other agricultural lands. However, the excess areas of the retained portion are covered by Operation Land Transfer. With respect to Alfredo and Manuel, they are not entitled to the exemption and/or retention of their ricelands because they are owners of more than seven (7) hectares of other agricultural lands.

"Anchored on the rule of law, the applicability of LOI No. 474 (Oct. 21, 1976) as the Implementing measure of P.D. No. 27 (Oct. 21, 1972) on the foregoing facts and circumstances is mandatory. This office does not even have the discretion to alter the above disposition on retention limits accorded the landowners as the law is clear and explicit on this point.

"xxx xxx xxx.

"WHEREFORE, premises considered, the orders dated February 17, 1987 and July 6, 1987 of this Office are hereby modified in the following manner as it is declared and ordered that:

"1. The ricelands of Consuelo S. Nazareno situated at Labrador, Pangasinan, and the ricelands of Peter Sison

situated at Labrador and Bayambang, Pangasinan, are exempted from the coverage of Operation Land Transfer;

"2. Petitioners Elisa S. Reyes, Renato Sison, Jose Sison, Josefina S. Zulueta and Jaime Sison are to retain not more than seven (7) hectares of their respective ricelands situated in Bayambang, Pangasinan, but the excess areas thereof, situated in Labrador, Pangasinan, which are covered by the OLT and the CLTs already issued, if any, to the tenants are hereby affirmed;

"3. Petitioners Alfredo Sison and Manuel Sison are not entitled to this exemption and/or retention of their ricelands as they are owners of more than seven (7) hectares of other agricultural land, and the tenant-tillers thereon, if they have not yet been issued the Certificates of Land Transfer, shall be issued such Certificates by the Regional Director of Region I, DAR, San Fernando, La Union;

"4. The tenants in the exempted and retained riceland areas of the petitioners shall remain as agricultural lessees thereon and the Certificates of Land Transfer issued to them, if any, shall be as they are hereby recalled/cancelled; and

"5. The tenant-farmers within the exempted and retained riceland areas are hereby ordered to pay to the landowners the lease rentals due them; or if such lease rentals were deposited with the Land Bank, the landowners are therefore, authorized to withdraw the said deposits." (pp. 19-20, Rollo.)

There is no merit in the petitioners' contention that the Heirs of Dr. Sison are disqualified to retain their shares of the agricultural lands of the estate for failure to comply with the requirement that "such landowner is cultivating such area, or will now cultivate it" (p. 23, Rollo). The Secretary interpreted that provision to mean "that the tenants in the exempted and retained riceland areas of the concerned Heirs of Sison, shall remain as agricultural lessees therein. Which means, that while ownership of the exempted and retained riceland areas shall pertain to the concerned Heirs of Sison, the petitioners-tenant, as agricultural lessees, shall remain as such and cultivate the same. The concerned Heirs of Sison therefore, do not have to cultivate the retained and exempted areas, unless the petitioners, as agricultural lessees, would voluntarily relinquish the task of cultivation and vacate and surrender the said areas to the Heirs" (p. 23, Rollo; Underscoring ours).

Respect should be accorded to the Secretary's construction of the law which his department administers and implements (*Asturias Sugar Central Inc. vs. Com. of Customs*, 29 SCRA 617; *Atlas Consolidated Mining and Development Corp. vs. Court of Appeals*, 182 SCRA 166; *Sierra Madre Trust vs. Secretary of Agriculture and Natural Resources*, 121 SCRA 384).

Hence, personal cultivation by the Heirs of Sison is not a mandatory precondition for them to be entitled to their retention right.

Secretary Juico's interpretation of the owner's right of retention conforms with our own construction in *Association of Small Landowners in the Philippines, Inc. vs. Secretary of Agrarian Reforms*, G.R. No. 78742, August 23, 1990, where we ruled that:

"x x x in case the area selected for retention by the landowner is tenanted, the tenant shall have the option to choose whether to remain therein or be a beneficiary in the same or another agricultural land with similar or comparable features. In case the tenant chooses to remain in the retained area, he shall be considered as leaseholder and shall lose his right to be a beneficiary under this Act. In case the tenant chooses to be a beneficiary in another agricultural land, he loses his right as a leaseholder to the land retained by the landowner. The tenant must exercise this option within a period of one (1) year from the time the land owner manifests his choice of the area for retention." (En Banc, Minute Resolution.)

Petitioners' contention that the Secretary of Agrarian Reform had no more authority or jurisdiction to cancel the

Certificates of Land Transfer after they had been issued to the tenants-beneficiaries, is not correct. The issuance, recall or cancellation of certificates of land transfer fall within the Secretary's administrative jurisdiction as implementor of P.D. 27. Having found that certain heirs of Dr. Sison were entitled to retain their ricelands (which did not exceed seven [7] hectares) and had been illegally denied that right, Secretary Juico properly ordered the cancellation of the Certificates of Land Transfer which had been erroneously issued to the petitioners.

WHEREFORE, finding no reversible error in the decision of the Court of Appeals, the Court hereby AFFIRMS it in toto.

SO ORDERED.

Cruz, (Chairman), Medialdea, and Bellosillo, JJ., concur.

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