

## ATTY. PLARIDEL M. MINGOA, PETITIONER, VS. LAND REGISTRATION ADMINISTRATOR, RESPONDENT.

*G.R. No. 97282. August 16, 1991*

Ponente: GANCAYCO, J.

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### **GANCAYCO, J.:**

The facts of this case are simple. A deed of donation of several parcels of land was executed by petitioner in favor of his children on July 15, 1987. The deed was forwarded to the Register of Deeds of Romblon for registration by registered mail on September 9, 1988. It was entered in the primary entry book of the Register of Deeds on September 20, 1988 under Entry No. 181. Said Register of Deeds suspended registration of the donation until the petitioner has secured the proper clearances from the Department of Agrarian Reform on the ground that under Section 6 of Republic Act 6657 any disposition of private agricultural lands made prior to June 15, 1988, when the Act took effect, must be registered within three (3) months from said date or on or before September 13, 1988 to be valid.

The matter was elevated by petitioner en consulta with the Administrator of the Land Registration Authority (LTA). On November 27, 1990 the LTA Administrator issued a resolution sustaining the stand of the Register of Deeds that unless the proper clearances from the Department of Agrarian Reform are secured the deed of donation may not be registered.

Hence this petition for certiorari whereby petitioner contends that Section 1, Rule 13 of the Rules of Court should apply in a suppletory manner in that the date of the mailing should be considered the date of filing of the document in the office of the Register of Deeds.

The petition is impressed with merit.

Section 6 of Republic Act No. 6657 provides, among others:

"SEC. 6. Retention Limits-Except as otherwise provided in this Act, no person may own or retain, directly or indirectly, any public or private agricultural land, the size of which shall vary according to factors governing a viable family-size farm, such as commodity produced, terrain, infrastructure, and soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder, but in no case shall retention by the landowner exceed five (5) hectares. Three (3) hectares 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: Provided, That landowners whose lands have been covered by Presidential Decree No. 27 shall be allowed to keep the area originally retained by them thereunder: Provided, further, That original homestead grantees or their direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead.

The right to choose the area to be retained, which shall be compact or contiguous, shall pertain to the landowner; Provided, however, That 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 a 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 landowner manifests his choice of the area for retention.

In all cases the security of tenure of the farmers or farmworkers on the land prior to the approval of this Act shall be respected.

Upon the effectivity of this Act, any sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner in violation of this Act shall be null and void; Provided, however, That those executed prior to this Act shall be valid only when registered with the Register of Deeds within a period of three (3) months after the effectivity of this Act. Thereafter, all Registers of Deeds shall inform the Department of Agrarian Reform (DAR) within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares. (Underscoring supplied)"

The said law was approved by the President of the Philippines on June 10, 1988. Section 78 thereof provides that it "shall take effect immediately after publication in at least two (2) national newspapers of general circulation." It appears the law took effect on June 15, 1988.

Section 56 of Presidential Decree No. 1529 also provides:

"SEC. 56. Primary Entry Book; fees; certified copies. - Each Register of Deeds shall keep a primary entry book in which, upon payment of the entry fee, he shall enter, in the order of their reception, all instruments including copies of writs and processes filed with him relating to registered land. He shall, as a preliminary process in registration, note in such book the date, hour and minute of reception of all instruments, in the order in which they were received. They shall be regarded as registered from the time so noted, and the memorandum of each instrument, when made on the certificate of title to which it refers, shall bear the same date; Provided, that the national government as well as the provincial and city governments shall be exempt from the payment of such fees in advance in order to be entitled to entry and registration.

Every deed or other instrument, whether voluntary or involuntary, so filed with the Register of Deeds shall be numbered and indexed and endorsed with a reference to the proper certificate of title. All records and papers relative to registered land in the office of the Register of Deeds shall be open to the public in the same manner as court records, subject to such reasonable regulations as the Register of Deeds, . No. 97282 under the direction of the Commissioner of Land Registration, may prescribe.

All deeds and voluntary instruments shall be presented with their respective copies and shall be attested and sealed by the Register of Deeds, endorsed with the file number, and copies may be delivered to the person presenting them.

Certified copies of all instruments filed and registered may also be obtained from the Register of Deeds upon payment of the prescribed fees."

The foregoing provision requires the Register of Deeds, upon payment of the entry fees, to enter in the primary book of entry, in the order of reception, all instruments including copies of writs and processes filed with him relative to registered land; the date, hour and minute shall be noted in said book which shall be regarded as the date of registration of the instrument; and the memorandum of each instrument on the certificate of title shall bear the same date.

Section 34 of Presidential Decree No. 1529 likewise provides:

"SEC. 34. Rules of procedure. - The Rules of Court shall, insofar as not inconsistent with the provisions of this Decree, be applicable to land registration and cadastral cases by analogy or in a suppletory character and whenever practicable and convenient."

Consequently, Section 1, Rule 13 of the Rules of Court is applicable to this case in a suppletory character as it provides:

"SEC.1. Filing with the court, defined. - The filing of pleadings, appearances, motions, notices, orders and other papers with the court as required by these rules shall be made by filing them personally with the clerk of the court or by sending them by registered mail. In the first case, the clerk shall endorse on the pleading the date and hour of filing. In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case."

The foregoing rule clearly provides that the date of mailing of the motion, pleading, or any other papers, which may include instruments as the deed of donation, is considered the date of filing as shown by the post office stamp on the envelope or registry receipt.

The Court therefore finds and so holds that the date of mailing of an instrument to the Register of Deeds for purposes of registration should be considered the date of filing and receipt thereof by the Register of Deeds. It is this date that should be entered in the primary entry book of the Register of Deeds which shall be regarded as the date of its registration.

Since in this case, the deed of donation was admittedly sent by registered mail to the Register of Deeds on September 9, 1988, said date is in effect the date of filing, receipt and registration of the instrument, although the instrument was actually received by said office only on September 20, 1988.

WHEREFORE, the petition is given due course and is hereby GRANTED. The questioned resolution of the public respondent Administrator of the Land Registration Authority dated November 27, 1990 is hereby SET ASIDE and it is hereby directed that the registration of deed of donation subject of this petition be effected by the Register of Deeds of Romblon.

**SO ORDERED.**

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

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