

**NELITA M. BACALING, REPRESENTED BY HER ATTORNEY-IN-FACT
JOSE JUAN TONG, AND JOSE JUAN TONG, IN HIS PERSONAL
CAPACITY, PETITIONERS, VS. FELOMINO MUYA, CRISPIN AMOR,
WILFREDO JERE...**

G.R. Nos. 148404-05. April 11, 2002

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is a Petition for Review of the consolidated Decision[1] dated January 31, 2001 of the Court of Appeals[2] in CA-G.R. SP No. 54413,[3] and in CA-G.R. SP No. 54414,[4] and of its Resolution[5] dated June 5, 2001 reversing the Decision[6] dated May 22, 1998 and Resolution July 22, 1999 of the Office of the President.

The facts of the case are as follows:

Petitioner Nelita M. Bacaling and her spouse Ramon Bacaling were the owners of three (3) parcels of land, with a total area of 9.9631 hectares, located in Barangay Cubay, Jaro, Iloilo City, and designated as Lot No. 2103-A (Psd-24069), Lot No. 2103-B-12 (Psd 26685) and Lot No. 2295. These lots were duly covered by Transfer Certificates of Title Nos. T-5801, T-5833 and T-5834, respectively. In 1955 the landholding was subdivided into one hundred ten (110) sub-lots covered by TCT Nos. T-10664 to T-10773, inclusive of the Registry of Deeds of the City of Iloilo. On May 16, 1955, the landholding was processed and approved as "residential" or "subdivision" by the National Urban Planning Commission (NUPC).[7] On May 24, 1955 the Bureau of Lands approved the corresponding subdivision plan for purposes of developing the said property into a low-cost residential community which the spouses referred to as the Bacaling-Moreno Subdivision.[8]

In 1957, a real estate loan of Six Hundred Thousand Pesos (P600,000.00) was granted to the spouses Nelita and Ramon Bacaling by the Government Service Insurance System (GSIS) for the development of the subdivision.[9] To secure the repayment of the loan, the Bacalings executed in favor of the GSIS a real estate mortgage over their parcels of land including the one hundred ten (110) sub-lots.[10] Out of the approved loan of Six Hundred Thousand Pesos (P600,000.00), only Two Hundred Forty Thousand Pesos (P240,000.00) was released to them.[11] The Bacalings failed to pay the amortizations on the loan and consequently the mortgage constituted on the one hundred ten (110) sub-lots was foreclosed by the GSIS.[12] After a court case that reached all the way to this Court,[13] Nelita Bacaling (by then a widow) in 1989 was eventually able to restore to herself ownership of the one hundred ten (110) sub-lots.[14]

According to the findings of the Office of the President, in 1972 and thereafter, respondents Felomino Muya, Crispin Amor, Wilfredo Jereza, Rodolfo Lazarte and Nemesio Tonocante clandestinely entered and occupied the entire one hundred ten (110) sub-lots (formerly known as Lot No. 2103-A, Lot No. 2103-B-12 and Lot No. 2295) and grabbed exclusively for themselves the said 9.9631 hectare landholding.[15] Apparently, respondents took advantage of the problematic peace and order situation at the onset of martial law and the foreclosure of the lots by GSIS.[16] They sowed the lots as if the same were their own, and altered the roads, drainage, boundaries and

monuments established thereon.[17]

Respondents, on the other hand, claim that in 1964 they were legally instituted by Bacaling's administrator/overseer as tenant-tillers of the subject parcels of land on sharing basis with two and a half (2½) hectares each for respondents Muya, Amor, Tonocante and Lazarte, and one and a half (1½) hectares for respondent Jereza. In 1974, their relationship with the landowner was changed to one of leasehold. They religiously delivered their rental payments to Bacaling as agricultural lessor. In 1980, they secured certificates of land transfer in their names for the one hundred ten (110) sub-lots. They have made various payments to the Land Bank of the Philippines as amortizing owners-cultivators of their respective tillage.

In 1977, however, the City Council of Iloilo enacted Zoning Ordinance No. 212 declaring the one hundred ten (110) sub-lots as "residential" and "non-agricultural," which was consistent with the conversion effected in 1955 by the NUPC and the Bureau of Lands. In 1978, Nelita Bacaling was able to register the subject property as the Bacaling-Moreno Subdivision with the National Housing Authority and to obtain therefrom a license to sell the subject one hundred ten (110) sub-lots comprising the said subdivision to consummate the original and abiding design to develop a low-cost residential community.

In August 21, 1990, petitioner Jose Juan Tong, together with Vicente Juan and Victoria Siady, bought from Nelita Bacaling the subject one hundred ten (110) sub-lots for One Million Seven Hundred Thousand Pesos (P1,700,000.00).[18] The said sale was effected after Bacaling has repurchased the subject property from the Government Service Insurance System. To secure performance of the contract of absolute sale and facilitate the transfer of title of the lots to Jose Juan Tong, Bacaling appointed him in 1992 as her attorney-in-fact, under an irrevocable special power of attorney with the following mandate-

- To file, defend and prosecute any case/cases involving lots nos. 1 to 110 covered by TCT Nos. T-10664 to T-10773 of the Register of Deeds of the City of Iloilo;
- To assume full control, prosecute, terminate and enter into an amicable settlement and compromise agreement of all cases now pending before the DARAB, Region VI, Iloilo City, which involved portion of Lots 1 to 110, covered by TCT Nos. T-10664 to T-10773 of the Register of Deeds of Iloilo City, which were purchased by Jose Juan Tong, Vicente Juan Tong and Victoria Siady;
- To hire a lawyer/counsel which he may deem fit and necessary to effect and attain the foregoing acts and deeds; handle and prosecute the aforesaid cases;
- To negotiate, cause and effect a settlement of occupation and tenants on the aforesaid lots;
- To cause and effect the transfer of the aforesaid lots in the name of the VENDEES;
- To execute and deliver document/s or instrument of whatever nature necessary to accomplish the foregoing acts and deeds.[19]

It is significant to note that ten (10) years after the perfection and execution of the sale, or on April 26, 2000, Bacaling filed a complaint to nullify the contract of sale. The suit was, however, dismissed with prejudice and the dismissal has long become final and executory.[20]

Following the sale of the one hundred ten (110) sub-lots and using the irrevocable special power of attorney executed in his favor, petitioner Tong (together with Bacaling) filed a petition for cancellation of the certificates of land transfer against respondents and a certain Jaime Ruel with the Department of Agrarian Reform (DAR) Region VI Office in Iloilo City.[21] The DAR, however, dismissed the petition on the ground that there had been no legitimate conversion of the classification of the 110 sub-lots from agricultural to residential prior to October 21, 1972 when Operation Land Transfer under P.D. No. 72 took effect.[22] Bacaling and Tong appealed to the

DAR Central Office but their appeal was similarly rejected.[23] The motion for reconsideration failed to overturn the ruling of the Central Office Order.[24]

On September 19, 1997, Bacaling and Tong appealed the adverse DAR Orders to the Office of the President which reversed them in toto in a Decision[25] dated May 22, 1998 (OP Decision, for brevity), the dispositive portion of which reads:

WHEREFORE, premises [considered], the assailed order of the Regional Director, DAR Region VI, dated April 3, 1996, as well as the orders of the DAR Secretary dated December 12, 1996 and September 4, 1997, are hereby REVERSED AND SET ASIDE and subject landholdings declared exempt from coverage of the CARL. The Certificates of Land Transfer (CLTs) issued to the appellees are hereby cancelled and the Department of Agrarian Reform directed to implement the voluntary offer made by appellant with respect to the payment of disturbance compensation and relocation of the affected parties.

SO ORDERED.[26]

The OP Decision found that the one hundred ten (110) parcels of land had been completely converted from agricultural to residential lots as a result of the declarations of the NUPC and the Bureau of Lands and the factual circumstances, i.e., the GSIS loan with real estate mortgage, the division of the original three (3) parcels of land into one hundred ten (110) sub-lots under individual certificates of title, and the establishment of residential communities adjacent to the subject property, which indubitably proved the intention of Nelita and Ramon Bacaling to develop a residential subdivision thereon. The OP Decision also categorically acknowledged the competence of the NUPC and the Bureau of Lands to classify the one hundred ten (110) sub-lots into residential areas. On July 22, 1999, separate motions for reconsideration thereof were denied.[27]

Respondents elevated the OP Decision to the Court of Appeals on a petition for review under Rule 43 of the Rules of Civil Procedure.[28] Before the petition was resolved, or on December 2, 1999, Nelita Bacaling manifested to the appellate court that she was revoking the irrevocable power of attorney in favor of Jose Juan Tong and that she was admitting the status of respondents as her tenants of the one hundred ten (110) sub-lots which allegedly were agricultural in character. The manifestation was however characterized by an obvious streak of ambivalence when her prayer therein urged the Court of Appeals to decide the case, curiously, “on the basis of the clear intent of Private Respondent” and “in accordance with the perception of this Honorable Court.”[29]

On January 31, 2001 the Court of Appeals reversed the OP Decision and validated the certificates of land transfers in favor of respondents without however promulgating a ruling on petitioner Tong's supposedly ensuing lack of material interest in the controversy as a result of the manifestation.[30] The dispositive portion of the decision reads:

WHEREFORE, premises considered, petition is GRANTED; and the May 22, 1998 Decision of the Office of the President is hereby REVERSED and SET ASIDE. The April 3, 1996 Order of the Regional Director, DARAB, Region VI, is REINSTATED.[31]

The appellate court refused to recognize the 1955 NUPC and Bureau of Lands classification of the subject lots as residential subdivision. Tong moved for reconsideration of the CA Decision which Bacaling did not oppose despite her manifestation. On June 5, 2001, again without a single reference to Bacaling's alleged repudiation of Tong's actions, the Court of Appeals denied reconsideration of its decision,[32] Hence, this petition for review on certiorari based on the following assignment of errors:

I

SUBJECT LANDHOLDINGS ARE EXEMPT FROM THE COVERAGE OF P.D. 27 AND OPERATION

LAND TRANSFER (1972, AS WELL (sic) THE COMPREHENSIVE AGRARIAN REFORM LAW (1988) AS THEY WERE CLASSIFIED AS RESIDENTIAL WAY BACK IN 1955 BY THE THEN NATIONAL PLANNING COMMISSION AND THE SUBDIVISION PLAN WAS APPROVED BY THE BUREAU OF LANDS. AS A CONSEQUENCE, THE CLTs ISSUED TO PRIVATE RESPONDENTS IN OCTOBER, 1980 ARE INVALID AS HAVING BEEN ISSUED WITHOUT JURISDICTION.

II

PRIVATE RESPONDENTS ARE NOT BONA FIDE TENANTS OF THE LANDS INVOLVED. PUBLIC RESPONDENT'S RULING THAT THE LATTER ARE SUCH IS CONTRARY TO LAW AS IT IGNORED THE FACT THAT THE LANDHOLDINGS ARE RESIDENTIAL AND NO COMPETENT PROOF OF CONSENT OF THE OWNER WAS EVER PRESENTED BY PRIVATE RESPONDENTS.

III

APPROVAL OF THE SECRETARY OF AGRARIAN REFORM IS NOT NECESSARY FOR THE VALID CLASSIFICATION OF THE LANDS INVOLVED INTO RESIDENTIAL BECAUSE THE CARL, AS ALSO THE RELATED AGRARIAN LAWS, HAVE NO RETROACTIVE APPLICATION.[33]

Long after issues were joined in the instant proceedings, or on October 8, 2001, petitioner Nelita Bacaling resurrected her manifestation with the Court of Appeals and moved to withdraw/dismiss the present petition on the ground that the irrevocable power of attorney in favor of petitioner Jose Juan Tong had been nullified by her and that Tong consequently lacked the authority to appear before this Court.[34] She also manifested that, contrary to the arguments of petitioner Tong, respondents were bona fide tenants of the one hundred ten (110) sub-lots which were allegedly agricultural and not residential pieces of realty.[35] Accordingly, petitioner Tong was left all alone to pursue the instant case.

The issues in this case can be summarized as follows: (1) Does petitioner Tong have the requisite interest to litigate this petition for review on certiorari?; (2) Are the respondents agricultural lessees?; and (3) Are the one hundred ten (110) sub-lots admittedly classified for residential use by the National Urban Planning Commission and the Bureau of Lands prior to October 21, 1972[36] covered by the Operation Land Transfer under P.D. No. 72?

We hold that petitioner Jose Juan Tong possesses adequate and legitimate interest to file the instant petition. Under our rules of procedure, interest means material interest, that is, an interest in issue and to be affected by the judgment,[37] while a real party in interest is the party who would be benefited or injured by the judgment or the party entitled to the avails of the suit.[38] There should be no doubt that as transferee of the one hundred ten (110) sub-lots through a contract of sale and as the attorney-in-fact of Nelita Bacaling, former owner of the subject lots, under an irrevocable special power of attorney, petitioner Tong stands to be benefited or injured by the judgment in the instant case as well as the orders and decisions in the proceedings a quo. The deed of sale categorically states that petitioner Tong and his co-sellers have fully paid for the subject parcels of land. The said payment has been duly received by Bacaling. Hence, it stands to reason that he has adequate and material interest to pursue the present petition to finality.

Respondents put too much weight on the motion to dismiss/withdraw filed by Nelita Bacaling. Under the facts obtaining in this case, the motion should be treated cautiously, and more properly, even skeptically. It is a matter of law that when a party adopts a certain theory in the court below, he will not be permitted to change his theory on appeal, for to permit him to do so would not only be unfair to the other party but it would also be offensive to the basic rules of fair play, justice and due process.[39] Bacaling's motion to dismiss the instant petition comes at the heels of her admission that she had immensely benefited from selling the said one hundred ten (110) sub-lots

to petitioner Tong and of the dismissal with prejudice of the civil case which she had earlier filed to nullify the sale.[40] It appears that the motion to dismiss is a crude and belated attempt long after the dismissal of the civil case to divest Tong of his indubitable right of ownership over the one hundred ten (110) sub-lots through the pretext of revoking the irrevocable special power of attorney which Bacaling had executed in his favor hoping that in the process that her act would cause the assailed orders of the DAR to become final and executory.

The records also bear out the fact that Bacaling's design to dispossess petitioner Tong of material interest in the subject matter of the instant petition appears to be subtly coordinated with respondents' legal maneuvers when it began as a side pleading (a mere Manifestation) in the proceedings before the Court of Appeals (CA-G.R. SP No. 54413 and CA-G.R. SP No. 54414) but which was never pursued to its ultimate conclusion until it again surfaced before this Court long after respondents' voluminous comment to the instant petition had been filed. Under these circumstances, we certainly cannot place our trust upon such an unsolicited motion having dubious roots, character and purpose.

Substantively, we rule that Bacaling cannot revoke at her whim and pleasure the irrevocable special power of attorney which she had duly executed in favor of petitioner Jose Juan Tong and duly acknowledged before a notary public. The agency, to stress, is one coupled with interest which is explicitly irrevocable since the deed of agency was prepared and signed and/or accepted by petitioner Tong and Bacaling with a view to completing the performance of the contract of sale of the one hundred ten (110) sub-lots. It is for this reason that the mandate of the agency constituted Tong as the real party in interest to remove all clouds on the title of Bacaling and that, after all these cases are resolved, to use the irrevocable special power of attorney to ultimately "cause and effect the transfer of the aforesaid lots in the name of the vendees [Tong with two (2) other buyers] and execute and deliver document/s or instrument of whatever nature necessary to accomplish the foregoing acts and deeds." [41] The fiduciary relationship inherent in ordinary contracts of agency is replaced by material consideration which in the type of agency herein established bars the removal or dismissal of petitioner Tong as Bacaling's attorney-in-fact on the ground of alleged loss of trust and confidence.

While Bacaling alleges fraud in the performance of the contract of agency to justify its revocation, it is significant to note that allegations are not proof, and that proof requires the intervention of the courts where both petitioners Tong and Bacaling are heard. Stated otherwise, Bacaling cannot vest in herself just like in ordinary contracts the unilateral authority of determining the existence and gravity of grounds to justify the rescission of the irrevocable special power of attorney. In *Sevilla v. Court of Appeals*[42] we thus held-

But unlike simple grants of a power of attorney, the agency that we hereby declare to be compatible with the intent of the parties, cannot be revoked at will. The reason is that it is one coupled with an interest, the agency having been created for the mutual interest of the agent and the principal xxx [Petitioner's] interest, obviously, is not limited to the commissions she earned as a result of her business transactions, but one that extends to the very subject matter of the power of management delegated to her. It is an agency that, as we said, cannot be revoked at the pleasure of the principal. Accordingly, the revocation complained of should entitle the petitioner x x x to damages.

The requirement of a judicial process all the more assumes significance in light of the dismissal with prejudice, hence, *res judicata*, of Bacaling's complaint to annul the contract of sale which in turn gave rise to the irrevocable special power of attorney. It is clear that *prima facie* there are more than sufficient reasons to deny the revocation of the said special power of attorney which is coupled with interest. Inasmuch as no judgment has set aside the agency relationship between Bacaling and Tong, we rule that petitioner Tong maintains material interest to prosecute the instant petition with or without the desired cooperation of Bacaling.

On the issue of whether the private respondents are agricultural tenants and entitled to the benefits accorded by

our agrarian laws, we rule in the negative. The requisites in order to have a valid agricultural leasehold relationship are: (1) The parties are the landowner and the tenant or agricultural lessee; (2) The subject matter of the relationship is agricultural land; (3) There is consent between the parties to the relationship; (4) the purpose of the relationship is to bring about agricultural production; (5) There is personal cultivation on the part of the tenant or agricultural lessee; and (6) The harvest is shared between the landowner and the tenant or agricultural lessee.

We find that the first, third and sixth requisites are lacking in the case at bar. One legal conclusion adduced from the facts in *Government Service Insurance System v. Court of Appeals*[43] provides that GSIS, not Bacaling, was the owner of the subject properties from 1961 up to 1989 as a result of the foreclosure and confirmation of the sale of the subject properties. Although the confirmation only came in 1975, the ownership is deemed to have been vested to GSIS way back in 1961, the year of the sale of the foreclosed properties. This is due to the fact that the date of confirmation by the trial court of the foreclosure sale retroacts to the date of the actual sale itself.[44]

Thus, the respondents cannot validly claim that they are legitimate and recognized tenants of the subject parcels of land for the reason that their agreement to till the land was not with GSIS, the real landowner. There is no showing that GSIS consented to such tenancy relationship nor is there proof that GSIS received a share in the harvest of the tenants. Consequently, the respondents cannot claim security of tenure and other rights accorded by our agrarian laws considering that they have not been validly instituted as agricultural lessees of the subject parcels of land. And from the time Bacaling recovered the subject properties from GSIS up to the time the former changed her legal position in the instant case, Bacaling has consistently disclaimed respondents as her alleged tenants. Bacaling's current legal posture cannot also overturn our finding since, as earlier mentioned, the said change of mind of Bacaling has little or no evidentiary weight under the circumstances.

The respondents argue that GSIS cannot be considered as the owner of the said properties from 1961 up to 1989 inasmuch as the foreclosure proceedings that started in 1957 only attained finality during its promulgation by this Court in 1989. Respondents contend that GSIS was the owner of the said parcels of land only from 1989.

We disagree. The pendency of the GSIS case cannot be construed as a maintenance of status quo with Bacaling as the owner from 1957 up to 1989 for the reason that what was appealed to this Court was only the issue of redemption, and not the validity of the foreclosure proceedings including the public auction sale, the confirmation of the public auction sale and the confirmation and transfer of ownership of the foreclosed parcels of land to GSIS. The ownership of GSIS over the subject parcels of land was not disputed. It was the existence of the right to redeem in a judicial foreclosure that was the subject of the controversy. We ruled that there was no longer any right of redemption in a judicial foreclosure proceeding after the confirmation of the public auction. Only foreclosures of mortgages in favor of banking institutions and those made extrajudicially are subject to legal redemption. Since GSIS is not a banking institution and the procedure of the foreclosure is not extrajudicial in nature, no right of redemption exists after the judicial confirmation of the public auction sale of the said lots.

With respect to the third issue, we find that the one hundred ten (110) sub-lots are indeed residential. In *Tiongson v. Court of Appeals*[45] we held that if the lot in question is not an agricultural land then the rules on agrarian reform do not apply since the "key factor in ascertaining whether there is a landowner-tenant relationship xxx is the nature of the disputed property." [46] We reiterated this rule in *Natalia Realty, Inc. v. Department of Agrarian Reform*[47] where we excluded lands not devoted to agricultural activity, i.e., lands previously converted to non-agricultural or residential uses prior to the effectivity of the 1988 agrarian reform law (R.A. No. 6657) by agencies other than the DAR, from the coverage of agrarian reform. The statement of the rule is buttressed by P.D. No. 27 which by its terms applies only to "tenant-farmers of private agricultural lands primarily devoted to rice and corn under a system of shared-crop or lease tenancy, whether classified as landed estate or not." [48]

In the case at bar, the indubitable conclusion from established facts is that the one hundred ten (110) sub-lots, originally three (3) parcels of land, have been officially classified as residential since 1955. The classification began when the NUPC and the Bureau of Lands approved the subdivision of the original three (3) parcels of land into one hundred ten (110) sub-lots each covered with transfer certificates of title. To build the subdivision project, Nelita Bacaling then obtained a real estate mortgage loan from the GSIS which she used to fund the project but he was unfortunately unable to complete it due to the immensity of the project cost. Bacaling undertook to complete the sale of the subdivision when in 1978 she obtained the registration thereof with the National Housing Authority as well as a license to sell individually the one hundred ten (110) sub-lots. Earlier, in 1977, the City Council of Iloilo also recognized the residential classification of the same one hundred ten (110) sub-lots when it passed the Land Use Plan and Zoning Ordinance. In 1990, Bacaling sold the same parcels of land to petitioner Tong who obviously wanted to pursue the development of the subdivision project. It is clear that Tong bought the property for residential and not agricultural purposes upon the strong assurance of Bacaling that the one hundred ten (110) sub-lots were legally available for such prospect. To be sure, the subject lots were valuable in the buyer's market only for residential use as shown by the example of adjacent lots which had long been utilized for building subdivisions and the implausibility of believing that Tong would buy the lands only to lose them at a bargain to agrarian reform.[49]

Clearly, both intention and overt actions show the classification of the one hundred ten (110) sub-lots for residential use. There can be no other conclusion from the facts obtaining in the instant case. Indeed, one cannot imagine Nelita Bacaling borrowing the substantial amount of Six Hundred Thousand Pesos (P600,000.00) from the GSIS and spending Two Hundred Fifty Thousand Pesos (P250,000.00) for the purpose of developing and subdividing the original three (3) parcels of land into one hundred ten (110) homelots, with individual transfer certificates of title ready and available for sale, if her purported desire were to keep the landholding for agricultural purposes. It also makes no sense that petitioner Tong would invest so much money, time and effort in these sub-lots for planting and cultivating agricultural crops when all the mechanisms are already in place for building a residential community. One cannot likewise deny the consistent official government action which decreed the said one hundred ten (110) sub-lots as most appropriate for human settlements considering that for several times beginning in 1955 and in accordance with relevant laws and regulations, the said landholding was categorically reserved as a residential subdivision.

It is also grave error to gloss over the NUPC action since its declarations have long been recognized in similar cases as the present one as clear and convincing evidence of residential classification. In *Magno-Adamos v. Bagasao*[50] we found the endorsements of the NUPC approving albeit tentatively a subdivision plan to be a very strong evidence of conversion of the disputed parcels of land into a residential subdivision which would contradict the alleged tenancy relationship. We found nothing objectionable in the trial court's ruling in *Santos v. de Guzman*[51] ejecting an alleged tenant from the landholding "because the same was included in a homesite subdivision duly approved by the National Planning Commission." [52] In *Republic v. Castellvi*[53] we gave great weight to the certification of the NUPC that the subject parcels of land were classified as residential areas and ordered their appraisal as residential and not agricultural lands -

The lower court found, and declared, that the lands of Castellvi and Toledo-Gozun are residential lands. The finding of the lower court is in consonance with the unanimous opinion of the three commissioners who, in their report to the court, declared that the lands are residential lands. The Republic assails the finding that the lands are residential, contending that the plans of the appellees to convert the lands into subdivision for residential purposes were only on paper, there being no overt acts on the part of the appellees which indicated that the subdivision project had been commenced xxx. We find evidence showing that the lands in question had ceased to be devoted to the production of agricultural crops, that they had become adaptable for residential purposes, and that the appellees had actually taken steps to convert their lands into residential subdivisions

xxx. The evidence shows that Castellvi broached the idea of subdividing her land into residential lots as early as July 11, 1956 in her letter to the Chief of Staff of the Armed Forces of the Philippines xxx. As a matter of fact, the layout of the subdivision plan was tentatively approved by the National Planning Commission on September 7, 1956 xxx. The land of Castellvi had not been devoted to agriculture since 1947 when it was leased to the Philippine Army. In 1957 said land was classified as residential, and taxes based on its classification as residential had been paid since then xxx. The location of the Castellvi land justifies its suitability for a residential subdivision.

he NUPC was created under EO 98, s. of 1946[54] to "prepare general plans, zoning ordinances, and subdivision regulations, to guide and accomplish a coordinated, adjusted, harmonious reconstruction and future development of urban areas which will in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including among other things adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of populations xxx."[55] Under the express terms of its mandate, the NUPC was therefore duty-bound to act only upon realty projects which would be used for human settlements and not for agricultural purposes. It is in this light that we must take stock of the 1955 NUPC conversion of the one hundred ten (110) sub-lots from agricultural to residential classification.

To bolster the exclusive role of the NUPC over developmental projects for residential and industrial purposes, the term "subdivision" (which NUPC was mandated to review and if properly executed to approve) was defined in EO 98 as "the division of a tract or parcel of land into two (2) or more lots, sites or other divisions for the purpose, whether immediate or future, of sale or building development, and includes resubdivision, and when appropriate to the context, relates to the process of subdividing or to the land or area subdivided."[56] The Subdivision Regulations[57] (which the NUPC adopted pursuant to EO 98) decreed as mandatory the NUPC approval of all subdivisions of land in the Philippines intended for residential, commercial and industrial purposes, before lots comprising the subdivision could be legally sold or building development therein could validly commence -

Any owner of land wishing to subdivide land shall submit to the Director of Planning [who was the head of NUPC] a plat of the subdivision which shall conform to the requirements set forth in these Regulations. No subdivider shall proceed with the sale of lots of a subdivision and no plat of a subdivision shall be filed with the Director of Lands for approval or recorded in the Office of the Register of Deeds until such plat shall have been approved by the Director of Planning. Applications for plat approval submitted to the District or City Engineer of a town or city in the Philippines shall be forwarded to the Director of Planning together with the District or City Engineer's recommendations (underscoring supplied).

We are convinced that the 1955 approval by the NUPC of the subdivision of the subject three (3) parcels of land owned by Nelita Bacaling and her spouse into one hundred ten (110) sub-lots caused the conversion, if not outright classification, of the entire landholding into a residential community for sale to interested buyers. This is an official classification of the sub-lots as residential units and constitutes the only objective and effectual means of obtaining in 1955 the classification and reservation of private land for non-agricultural use, i.e. residential, industrial or commercial, since neither P.D. No. 27 nor R.A. No. 6657[58] (together with the specified formal mechanisms stipulated therein for converting a piece of agricultural land into a residential lot) were then binding and effective. The assignment or conversion of the one hundred ten (110) sub-lots for residential purposes was not abrogated by P.D. No. 27 under which respondents invalidly secured their certificates of land transfer since the decree was only prospectively effective[59] and its coverage was limited only to agricultural lands which clearly do not include the residential sub-lots in question.[60]

By virtue of the official classification made by NUPC and the other circumstances convincingly proved herein, the only fair and legally acceptable decision in the instant case would be to declare, as we now indeed rule, that the one hundred ten (110) sub-lots are truly residential in character as well as in purpose and are thus excluded from the coverage of P.D. No. 27.

Verily, the Certificates of Land Transfer (CLT) issued in respondents' names are not valid and do not change our ruling. The respondents cannot rely on said CLTs as proof of security of tenure. It is well settled that the certificates of land transfer are not absolute evidence of ownership of the subject lots^[61] and consequently do not bar the finding that their issuance is void from inception since they cover residential lands contrary to the mandate of P.D. No. 27. It follows from the fact of nullity of the certificates of land transfer in respondents' names that the respondents are not entitled to occupy and possess the one hundred ten (110) sub-lots or portions thereof without the consent of the owner, herein petitioner Tong.

While not raised as issues in the instant petition, we nevertheless rule now (conformably with *Gayos v. Gayos*^[62] that it is a cherished rule of procedure that a court should always strive to settle the entire controversy in a single proceeding leaving no root or branch to bear the seeds of future litigation) that respondents cannot claim disturbance compensation for the reason that the sub-lots are not and have never been available for agrarian reform. In the same vein, respondents also have no right to be reimbursed by petitioner Jose Juan Tong for the value of or expenses for improvements which they might have introduced on the one hundred ten (110) sub-lots since they did not allege nor prove the existence of such improvements and their right to compensation thereto, if any.^[63]

WHEREFORE, the Petition for Review is GRANTED. It is further ordered and adjudged that:

- The certificates of land transfer over the one hundred ten (110) sub-lots located in Barangay Cubay, Jaro, Iloilo City, in the name of respondents and/or their successors in interest are hereby DECLARED VOID AB INITIO. The said one hundred ten (110) sub-lots, covered by TCT Nos. T-10664 to T-10773 of the Registry of Deeds of the City of Iloilo, are declared outside the coverage and operation of P.D. No. 27 and other land reform laws.
- The consolidated Decision of the Court of Appeals in CA-G.R. SP No. 54413 (“*Felomino Muya and Crispin Amor v. Nelita Bacaling*, represented by her attorney-in-fact, Jose Juan Tong, and the Executive Secretary, Office of the President”) and in CA-G.R. SP No. 54414, (“*Wilfredo Jereza, Rodolfo Lazarte and Nemesio Tonocante v. Hon. Executive Secretary, Office of the President and Nelita Bacaling*”) and its Resolution dated June 5, 2001 denying petitioners’ Motion for Reconsideration are REVERSED AND SET ASIDE.
- The Decision dated May 22, 1998 and the Resolution dated July 22, 1999 of the Office of the President in OP Case No. 98-K-8180 are REINSTATED with the modification in that the respondents are not entitled to disturbance compensation; and
- Respondents Felomino Muya, Crispin Amor, Wilfredo Jereza, Rodolfo Lazarte and Nemesio Tonocante together with their assigns and successors in interest are ordered to vacate and surrender peacefully the possession of the one hundred ten (110) sub-lots, covered by TCT Nos. T-10664 to T-10773-Iloilo City, to petitioner Jose Juan Tong within thirty (30) days from notice of this Decision.

No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Quisumbing, JJ., concur.

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- [1] Penned by Associate Justice Andres Reyes, Jr. and concurred in by Associate Justices B.A. Adefuin-de la Cruz, and Rebecca de Guia-Salvador; Rollo, pp. 36-45.
- [2] Sixteenth Division.
- [3] The case is entitled "Felomino Muya and Crispin Amor v. Nelita Bacaling, represented by her attorney-in-fact, Jose Juan Tong, and the Executive Secretary, Office of the President".
- [4] The case is entitled "Wilfredo Jereza, Rodolfo Lazarte and Nemesio Tonocante v. Hon. Executive Secretary, Office of the President, and Nelita Bacaling."
- [5] Rollo, pp. 47-48.
- [6] Rollo, pp. 49-55.
- [7] Rollo, p. 50.
- [8] Rollo, p. 50.
- [9] Rollo, p. 50.
- [10] Rollo, p. 50.
- [11] Government Service Insurance System v. Court of First Instance of Iloilo, Branch III, 175 SCRA 19, 21 (1989).
- [12] Ibid.
- [13] The case referred to is Government Service Insurance System v. Court of First Instance of Iloilo, Branch III; Ibid.
- [14] Rollo, p. 50.
- [15] Rollo, p. 50.
- [16] Rollo, p. 52.
- [17] Rollo, p. 50.
- [18] Annex "A" of Comment/Opposition (on Petitioner Nelita M. Bacaling's Motion to Withdraw/Dismiss Petition); Rollo, p. 319-321.
- [19] Rollo, pp. 58-60.
- [20] See Note 18, i.e., Deed of Absolute Sale; Annex "E" of Comment/Opposition (on Petitioner Nelita M. Bacaling's Motion to Withdraw/Dismiss Petition); Rollo, p. 330.
- [21] Docketed as ADM. Case No. 01-21-93-3090.
- [22] Order dated April 3, 1996; Rollo, pp. 61-66.
- [23] Docketed as ADM. Case No. A-0400-0010-92; Order dated December 12, 1996; Rollo, pp. 67-72.
- [24] Order dated September 4, 1997; Rollo, pp. 73-77.
- [25] Docketed as OP Case No. 98-K-8180; Decision dated May 22, 1998 penned by Executive Secretary Alexander P. Aguirre; Rollo, pp. 49-55.

[26] Rollo, p. 55.

[27] Resolution dated July 22, 1999 penned by Executive Secretary Ronaldo B. Zamora; Rollo, pp. 56-57.

[28] Docketed as CA-G.R. SP Nos. 54413 and 54414; Rollo, pp. 35-48.

[29] Rollo, pp. 118-124.

[30] Rollo, pp. 35-45.

[31] Rollo, p. 45.

[32] Rollo, pp. 47-48.

[33] Rollo, pp. 17-18.

[34] Rollo, pp. 260-261.

[35] Rollo, p. 260.

[36] This is the date of effectivity of P.D. No. 72, the land reform law under which respondents obtained the certificates of land transfer in their names.

[37] I V.J. Francisco, *The Revised Rules of Court in the Philippines* (1973), p. 209.

[38] Sec. 2, Rule 3, Revised Rules of Civil Procedure.

[39] *Cruz v. Court of Appeals*, 233 SCRA 301, 309 (1994), citing *BA Finance Corporation v. Court of Appeals*, 201 SCRA 157; *Galicia v. Palo*, 179 SCRA 375; *Ramos v. Intermediate Appellate Court*, 175 SCRA 70; *Ganzon v. Court of Appeals*, 161 SCRA 641; *Dulos Realty and Development Corporation v. Court of Appeals*, 157 SCRA 425; *Dihiansan, et.al. v. Court of Appeals*, 153 SCRA 712; *Dela Santa v. Court of Appeals*, 140 SCRA 44; *Soriano v. Philippine National Railways*, 84 SCRA 722; *Mejorada v. Municipal Council of Dipolog*, 52 SCRA 451.

[40] See Note 20.

[41] Rollo, pp. 58-60.

[42] G.R. Nos. L-41182-3, 160 SCRA 171 (1988).

[43] See Note 11.

[44] *Government Service Insurance System v. Court of Appeals*, 175 SCRA 19, 24 (1989); *Binalbagan Estate, Inc. v. Gatuslao, et. al.* 74 Phil 128 (1943).

[45] G.R. No. L-62626, 130 SCRA 482 (1984).

[46] *Id.*, p. 489.

[47] G.R. No. 103302, 225 SCRA 282 (1983).

[48] Par. 5.

[49] For a listing of the subdivisions, see Rollo, p. 52.

[50] G.R. No. L-63671, 162 SCRA 747 (1988).

[51] 111 Phil. 671 (1961).

[52] The National Planning Commission was the successor agency of the National Urban Planning Commission under EO 367, s. 1950; 46 O.G., No. 11, pp. 5301-5307 (11 November 1950).

[53] 58 SCRA 336, 356 (1974).

[54] The EO is entitled "Creating a National Urban Planning Commission and Defining Its Powers and Duties."

[55] 42 O.G. No. 3, p. 425 (March 11, 1946).

[56] Ibid.

[57] 45 O.G. No. 6, p. 2417 (June 1949); Underscoring supplied.

[58] This law is entitled "Comprehensive Agrarian Reform Law of 1988."

[59] *Castro v. Court of Appeals*, No. L-44727, 99 SCRA 722 (1980).

[60] See note 46.

[61] R.P. Barte, *The Law on Agrarian Reform* (1991), p. 64.

[62] G.R. No. L-27812, 67 SCRA 146 (1975).

[63] *Baclayon v. Court of Appeals*, G.R. No. 89132, 182 SCRA 761, 769-770 (1990); *International School, Inc. Minister of Labor and Employment*, G.R. No. 54243, 175 SCRA 507 (1989).

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