507 Phil. 585

SECOND DIVISION

[G.R. NO. 140847, September 23, 2005]

HOSPICIO DE SAN JOSE DE BARILI, CEBU CITY, PETITIONER, VS. DEPARTMENT OF AGRARIAN REFORM, RESPONDENT.

D E C I S I O N

TINGA, J.

At the core of this case is an obscure old special law. The issue is whether a provision in the law prohibiting the sale of the properties donated to the charitable organization that was incorporated by the same law bars the implementation of agrarian reform laws as regards said properties.

Petitioner Hospicio de San Jose de Barili ("Hospicio") is a charitable organization created as a body corporate in 1925 by Act No. 3239. The law was enacted in order to formally accept the offer made by Pedro Cui and Benigna Cui to establish a home for the care and support, free of charge, of indigent invalids and incapacitated and helpless persons.[1] The Hospicio was to be maintained with the revenues of the personal and real properties to be endowed by the Cuis and other donors.[2]

Section 4 of Act No. 3239 provides that "[t]he personal and real property donated to the [Hospicio] by its founders or by other persons shall not be sold under any consideration."[3]

On 10 October 1987, the Department of Agrarian Reform Regional Office (DARRO) Region VII issued an order ordaining that two parcels of land owned by the Hospicio be placed under Operation Land Transfer in favor of twenty-two (22) tillers thereof as beneficiaries. Presidential Decree (P.D.) No. 27, a land reform law, was cited as legal basis for the order. The Hospicio filed a motion for the reconsideration of the order with the Department of Agrarian Reform (DAR) Secretary, citing the aforementioned Section 4 of Act No. 3239. It argued that Act No. 3239 is a special law, which could not have been repealed by P.D. No. 27, a general law, or by the latter's general repealing clause.

The DAR Secretary rejected the motion for reconsideration in an *Order* dated 30 March 1997. Therein, the DAR Secretary held that P.D. No. 27 was a special law, as it applied only to particular individuals in the State, specifically the tenants of rice and corn lands. Moreover, P.D. No. 27, which covered all rice and corn lands, provides no exemptions based on the manner of acquisition of the land by the landowner.[4]

The *Order* of the DAR Secretary was assailed in a *Petition for Certiorari* filed with the Court of Appeals. In a *Decision*[5] dated 9 July 1999, the Court of Appeals Special Eleventh Division affirmed the DAR Secretary's issuance. It sustained the position of

the Office of the Solicitor General (OSG) position that Section 4 of Act No. 3239 was expressly repealed not only by P.D. No. 27, but also by Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, both laws being explicit in mandating the distribution of agricultural lands to qualified beneficiaries. The Court of Appeals further noted that the subject lands did not fall among the exemptions provided under Section 10 of Rep. Act No. 6657. Finally, the appellate court brought into play the aims of land reform, affirming as it did "the need to distribute and create an economic equilibrium among the inhabitants of this land, most especially those with less privilege in life, our peasant farmer."[6]

Unsatisfied with the Court of Appeals' *Decision*, the Hospicio lodged the present *Petition for Review*. The Hospicio alleges that P.D. No. 27, the CARL, and Executive Order No. 407[7] all violate Section 10, Article III of the Constitution, which provides that "no law impairing the obligation of contracts shall be passed." More sedately, the Hospicio also argues that Act No. 3239 was not repealed either by P.D. No. 27 or Rep. Act No. 6657 and that the forced disposition of the Hospicioï¿½s landholdings would incapacitate the discharge of its charitable functions, which equally promote social justice and the upliftment of the lives of the less fortunate.

On the other hand, the OSG, representing respondent DAR, bluntly replies that Act No. 3239 was repealed by P.D. No. 27 and Rep. Act No. 6657, which do not exempt lands owned by eleemosynary or charitable institutions from the coverage of those agrarian reform laws.

A brief recapitulation of the relevant laws is in order.

P.D. No. 27, "Decreeing the Emancipation of Tenants from the Bondage of the Soil, Transferring to Them Ownership of the Land they Till, and Providing the Instrument and Mechanism Therefor," has once been touted as perhaps "a radical solution in its pristine sense, one that goes at the root [of the problem of land tenancy]."[8] Its constitutionality was upheld in *De Chavez v. Zobel*.[9] The law generally "ordains the emancipation of tenants and confers on them ownership of the lands they till."[10] The following provisions of P.D. No. 27 have concretized this policy:

> NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1 dated September 22, 1972, as amended do hereby decree and order the emancipation of all tenant farmers as of this day, October 21, 1972;
>
> This shall apply to tenant farmers of private agricultural lands[11] primarily devoted to rice and corn under a system of sharecrop or lease-tenancy, whether classified as landed estate or not;
>
> The tenant farmer, whether in land classified as landed estate or not, shall be deemed owner of a portion constituting a family-size farm of five (5) hectares if not irrigated and three (3) hectares if irrigated;

> In all cases, the landowner may retain an area of not more than seven (7) hectares if such landowner is cultivating such area or will now cultivate it;

The CARL was not yet in effect when the DARRO and the DAR issued their respective orders. Said law vests P.D. No. 27 with suppletory effect insofar as the earlier law does not run inconsistent with the later law.[12] Under Section 4 of the CARL, placed under coverage are all public and private agricultural lands regardless of tenurial arrangement and commodity produced, subject to the exempted lands listed in Section 10 thereof.

We agree with the Court of Appeals that neither P.D. No. 27 nor the CARL exempts the lands of the Hospicio or other charitable institutions from the coverage of agrarian reform. Ultimately, the result arrived at in the assailed issuances should be affirmed. Nonetheless, both the DAR Secretary and the appellate court failed to appreciate what to this Court is indeed the **decisive legal dimension** of the case.

Section 4 of Act No. 3239 prohibits the sale "under any consideration" of the lands donated to the Hospicio. But the land transfers mandated under P.D. No. 27 cannot be considered a conventional sale under our civil laws.

Generally, sale arises out of a contractual obligation. Thus, it must meet the first essential requisite of every contract that is the presence of consent.[13] Consent implies an act of volition in entering into the agreement.[14] The absence or vitiation of consent renders the sale either void or voidable.

In this case, the deprivation of the Hospicio's property did not arise as a consequence of the Hospicio's consent to the transfer. There was no meeting of minds between the Hospicio, on one hand, and the DAR or the tenants, on the other, on the properties and the cause which are to constitute the contract[15] that is to serve ultimately as the basis for the transfer of ownership of the subject lands.[16] Instead, the obligation to transfer arises by compulsion of law, particularly P.D. No. 27.[17]

Agrarian reform is justified under the State's inherent power of eminent domain that enables it to forcibly acquire private lands intended for public use upon payment of just compensation to the owner.[18] It has even been characterized as beyond the traditional exercise of eminent domain, but a revolutionary kind of expropriation. As expounded in the landmark case of *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, thus:

> . . . . However, we do not deal here with the *traditional* exercise of the power of eminent domain. **This is not an ordinary expropriation where only a specific property of relatively limited area is sought to be taken by the State from its owner for a specific and perhaps local purpose. What we deal with here is a *revolutionary* kind of expropriation**.
>
> **The expropriation before us affects *all* private agricultural lands whenever found and of whatever kind as long as they are in excess of the maximum retention limits allowed their owners**. This

> kind of expropriation is intended for the benefit not only of a particular community or of a small segment of the population but of the entire Filipino nation, from all levels of our society, from the impoverished farmer to the land-glutted owner. Its purpose does not cover only the whole territory of this country but goes beyond in time to the foreseeable future, which it hopes to secure and edify with the vision and the sacrifice of the present generation of Filipinos. Generations yet to come are as involved in this program as we are today, although hopefully only as beneficiaries of a richer and more fulfilling life we will guarantee to them tomorrow through our thoughtfulness today. And, finally, let it not be forgotten that it is no less than the Constitution itself that has ordained this revolution in the farms, calling for "a just distribution" among the farmers of lands that have heretofore been the prison of their dreams but can now become the key at least to their deliverance.[19]

This characterization is warranted whether the expropriation is operative under the CARL or P.D. No. 27, as both laws are keyed into the same governmental objective. Moreover, under both laws, the landowner is entitled to just compensation for the properties taken.

The twin process of expropriation of lands under agrarian reform and the payment of just compensation is akin to a forced sale, which has been aptly described in common law jurisdictions as "sale made under the process of the court, and in the mode prescribed by law," and "which is not the voluntary act of the owner, such as to satisfy a debt, whether of a mortgage, judgment, tax lien, etc."[20] The term has not been precisely defined in this jurisdiction, but reference to the phrase itself is made in Articles 223, 232, 237 and 243 of the Civil Code, which uniformly exempt the family home "from execution, forced sale, or attachment."[21] Yet a forced sale is clearly different from the sales described under Book V of the Civil Code which are conventional sales, as it does not arise from the consensual agreement of the vendor and vendee, but by compulsion of law. Still, since law is recognized as one of the sources of obligation, there can be no dispute on the efficacy of a forced sale, so long as it is authorized by law.

The crucial question now arises, whether the sale prohibited under Section 4 of Act No. 3239 includes even a forced sale. Of course an overly literal reading of the provision would justify such inclusion, but appropriately a more sophisticated approach to statutory construction is warranted.

No séance is required to discern the intent of Section 4. It ensures that the properties received by the Hospicio are not alienated for profit by the officers or administrators, in contravention of the charitable purpose for which the Hospicio was created. To an extent, it makes possible the perpetual operation of the Hospicio, which was empowered by law to operate for an indefinite period, by assuring the existence of the property on which the Hospicio could operate. We also do not doubt that whatever fruits of the forcibly retained property would also serve a source of funding for the operations of the Hospicio.

The salutariness of these objectives is beyond doubt. The interests they seek to protect are present whether the prohibition encompasses only conventional sales, or even forced sales. Yet to insist that Section 4 likewise prohibits sales or dispositions

by operation of law would necessarily imply that the Hospicio is also beyond the reach of any form of judicial execution. The charitable nature of the Hospicio does not shield it from susceptibility to civil liability, and an absolute prohibition on sales, whether forced or conventional, deprives whatever judgment creditors of the Hospicio from any effective means of enforcing relief.

Was it the intent of the framers of Act No. 3239 to exempt the Hospicio from all judicial processes, even those arising from civil transactions? We do not think so. The contemporaneous construction of Section 4 indicates that the prohibition intended by the crafters of the law pertained only to conventional sales, and not forced sales. The law was promulgated in 1925, or when the Spanish Civil Code of 1889 was in effect. The provisions in the Civil Code referring to "forced sales" were not derived from the Spanish Civil Code. On the other hand, the consensual nature of the contract of sale, and of contracts in general, is recognized under the Spanish Civil Code. Under Article 1261 of the Spanish Civil Code, there is no contract unless the consent of the contracting parties exists.[22]

Evidently, the word "sale," as contemplated by the framers of the law in 1925, pertains to its concept in civil law, with the requisite of consent being present. It cannot refer to sales or dispositions that arise by operation of law, such as through judicial execution, or, as in this case, expropriation.

Thus, we can hardly characterize the acquisition of the subject properties from the Hospicio for the benefit of the tenants as a sale, within the contemplation of Section 4 of Act No. 3239. The transfer arises from compulsion of law, and not the desire of any parties. Even if the Hospicio had voluntarily offered to surrender its properties to agrarian reform, the resulting transaction would not be considered as a conventional sale, since the obligation is created not out of the mandate of the parties, but the will of the law.

The DARRO *Order* did note that Section 4 of Act No. 3239 is not applicable in this case, since the transfer is compulsory on the part of the landowner, unlike in ordinary sale.[23] Regrettably, the DAR Secretary and the Court of Appeals failed to apply that sound principle, preferring to rely instead on the conclusion that Section 4 was repealed by P.D. No. 27 and the CARL.

Nonetheless, even assuming for the nonce that Section 4 contemplates even forced sales such as those through expropriation, we would agree with the DAR Secretary and the Court of Appeals that Section 4 is deemed repealed by P.D. No. 27 and the CARL.

The scope of lands subjected to agrarian reform under these two laws is overwhelming. P.D. No. 27 applies to all private agricultural lands primarily devoted to rice and corn with tenant farmers under a system of sharecrop or lease-tenancy, [24] while the CARL is even broader in scope, generally covering all public and private agricultural lands regardless of tenurial arrangement and commodity produced. Under Section 10 of the CARL, the only exempted lands are:

> Lands actually, directly and exclusively used and found to be necessary for parks, wildlife, forest reserves, reforestation, fish sanctuaries and breeding grounds, watersheds, and mangroves, national defense, school