

THIRD DIVISION

[G.R. NO. 146035, September 09, 2005]

**ESPERANZA VDA. DE LOPEZ AND MODESTA VDA. DE ASUNCION,
PETITIONERS, VS. HON. COURT OF APPEALS AND REYNALD M.
ROMERO, RESPONDENTS.**

D E C I S I O N

GARCIA, J.

Under consideration is this petition for review on *certiorari* under Rule 45 of the Rules of Court to nullify and set aside the following issuances of the Court of Appeals (CA) in CA-G.R. SP No. 41904, to wit:

- 1) **Decision^[1] dated February 29, 2000**, affirming the order of Provincial Adjudicator Toribio E. Ilao, Jr., PARAB, Region 3, San Fernando, Pampanga, which denied for lack of merit the motion to dismiss filed by petitioners in DARAB Case No. 4098'96; and
- 2) **Resolution^[2] dated November 9, 2000**, denying petitioners' motion for reconsideration.

The facts:

Subject of this litigation are two parcels of agricultural land located at Sampaloc (Paligui) Apalit, Pampanga, namely: Lot 847 and Lot 845, with the area of 1.0876 and 1.0632 hectares, respectively. Presently, these lots are covered by Transfer Certificates of Title No. 4304 and 4305, registered in the name of respondent Reynald M. Romero, who is the holder of Certificate of Land Ownership Award (CLOA) Nos. 70690 and 70691 issued by the Secretary of Agrarian Reform on December 1, 1993.

Formerly, the subject parcels of agricultural land were covered by a CLOA in favor of farmer-beneficiary Leonardo Briones. In *A.R. Case No. 0029 '94* of the **Department of Agrarian Reform (DAR) Regional Office** at Region III, Dolores, San Fernando, Pampanga herein petitioners Esperanza Vda. de Lopez and Modesta Vda. de Asuncion challenged the award of subject lots to Briones.

During the pendency of *A.R. Case No. 0029 '94*, Briones filed with the Provincial Agrarian Reform Adjudication Board (PARAB) at Region III, San Fernando, Pampanga a petition for the cancellation of his CLOA because on November 16, 1992, he executed a "Waiver of Rights" in favor of one Erlinda Quintos. Before this petition for cancellation could be resolved by the PARAB, Briones executed on September 18, 1992 another "Waiver of Rights" in favor of herein respondent Reynald Romero to facilitate the transfer of the two (2) parcels in question to respondent who bought said lots from Briones for P2M, as evidenced by a Deed of

Absolute Sale executed by Briones in favor of respondent on April 15, 1992.

In an Order dated January 13, 1993, PARAB Adjudicator Toribio E. Ilao, Jr. granted Briones' petition for cancellation of his CLOA. Pursuant thereto, the DAR Secretary issued CLOA Nos. 70690 and 70691 in favor of respondent Romero on December 1, 1993, on the basis of which TCT Nos. 4304 and 4305 were issued in the latter's name.

Meanwhile, in *A.R. Case No. 0029 '94*, the DAR Regional Office at Region III issued an Order dated March 7, 1994, which pertinently reads:

1. DECLARING Leonardo Briones as disqualified from being a farmer-beneficiary of Lot No. 847 with an area of 1.0876 hectares and a portion of 1.0632 hectares of Lot 845, both situated at Sampaloc (Paligui), Apalit, Pampanga, and to all other lands covered by the agrarian reform program of the government;
2. DECLARING said landholdings mentioned in the next preceding paragraph hereof open for disposition to qualified farmer-beneficiaries;
3. GIVING preferential rights to Esperanza Vda. De Lopez and Modesta Vda. De Asuncion to purchase the subject landholdings;
4. DIRECTING the parties concerned to ventilate their case before the DARAB with respect to the cancellation of the CLOA in favor of Leonardo Briones; and
5. DIRECTING the MARO concerned to refrain any person(s) from developing and/or converting the subject landholdings into commercial site.

However, considering that the subject parcels of land were already sold and transferred, and titles thereto already issued in favor of respondent Romero, the aforesaid Order of March 7, 1994 in *A.R. Case No. 0029'94* was not enforced. Nevertheless, the DAR Regional Office at Region III continued with its investigation. Then, on **December 13, 1995**, DAR Region III Director Eugenio B. Bernardo, issued an **Order** dispositively reading, as follows:

WHEREFORE, in the light of the foregoing premises, an ORDER is hereby issued:

1. DISQUALIFYING Reynald Marcelino Romero as farmer-beneficiary of Lot 847 with an area of 1.0876 hectares and a portion of 1.632 hectares of Lot No. 845, both situated at Sampaloc (Paligui), Apalit, Pampanga, and to all other agricultural lands under the agrarian reform program of the government;
2. REWARDING Lot No. 847 with an area of 1.0376 hectares and a portion of 1.0632 hectares of Lot No. 845 all at Sampaloc (Paligui), Apalit, Pampanga in favor of Esperanza Vda. De Lopez and Modesta Vda. De Asuncion, and the due issuance of CLOAs in their favor;

3. FORFEITING in favor of the government all the payment made by Reynald Marcelino Romero covering the subject lots;
4. DIRECTING Esperanza Vda. De Lopez and Modesta Vda. De Asuncion to institute appropriate action before the proper forum for the cancellation of the CLOAs issued in the name of Reynald Marcelino Romero; and
5. DIRECTING all DAR personnel concerned and the personnel of DILG and PNP to implement and enforce this Order and the Order, dated March 7, 1991, pursuant to Joint-Memorandum Circular No. 04, Series of 1990.

Upon knowledge of said Order, respondent Romero filed with the **Department of Agrarian Reform Adjudication Board (DARAB) at Region III**, San Fernando, Pampanga a petition for "*Maintenance of Peaceful Possession and Annulment/Cancellation of Order dated December 13, 1995 with Injunction*". This petition was docketed before the DARAB's **Provincial Agrarian Reform Adjudication Board (PARAB) at Region III** as *DARAB Case No. 4098 P'96*. In said petition, Romero alleged, among others, that as bonafide tenant/tiller, farmer-beneficiary of the subject lots and as the titled owner thereof, he is entitled to security of tenure as mandated by law, but that herein petitioners were harassing, intimidating and threatening him and committing acts tending to eject, oust and remove him from his peaceful possession, occupation and cultivation of the subject lots. Respondent Romero also questioned in the same petition the December 13, 1995 Order issued by DAR Region III Director Bernardo, for having been issued in excess of authority because said Order in effect reversed and set aside the decision of the DAR Secretary who issued the CLOAs in his favor. Respondent Romero likewise raised the issue of qualifications of herein petitioners as farmer-beneficiaries considering that they are residents of Sta. Maria, Minalin, Pampanga and not of Sampaloc, Apalit, Pampanga as certified by Barangay Captain Pedro Isip. In the same petition, Romero, in order to protect his rights pending resolution of his petition for "Maintenance, etc.", prayed for the issuance of a temporary restraining order and a writ of preliminary injunction.

Instead of filing an answer or comment to respondent Romero's aforementioned petition in *DARAB Case No. 4098 P'96*, petitioners filed a *Motion to Dismiss*, arguing that the PARAB has **no jurisdiction** to entertain Romero's aforementioned petition because the questioned Order dated December 13, 1995 of DAR Region III Director Eugenio Bernardo is administrative in nature and, therefore, should have been appealed by Romero to the DAR Secretary. Petitioners' Motion to Dismiss was opposed by Romero, citing the provisions of Rule 2(c) of the Revised Rules of Procedure of the DARAB.

In an Order dated August 14, 1996, PARAB Adjudicator Ilao, Jr., **denied** petitioners' *Motion to Dismiss*. Therefrom, petitioner went to the Court Appeals *via* a petition for *certiorari*, thereat docketed as *CA-G.R. SP No. 41904*.

As stated at the threshold hereof, the Court of Appeals, in a Decision dated February 29, 2000, dismissed petitioners' recourse.

In time, petitioners moved for reconsideration but their motion was denied by the