

## SECOND DIVISION

[ G.R. No. 218666, April 26, 2017 ]

**HEIRS OF LEONILO P. NUÑEZ, SR., NAMELY, VALENTINA A. NUÑEZ, FELIX A. NUÑEZ, FELIXITA A. NUÑEZ, LEONILO A. NUÑEZ, JR., MA. ELIZA A. NUÑEZ, EMMANUEL A. NUÑEZ, ROSE ANNA A. NUÑEZ-DE VERA, AND MA. DIVINA A. NUÑEZ-SERNADILLA, REPRESENTED BY THEIR CO-HEIR AND ATTORNEY-IN-FACT, ROSE ANNA A. NUÑEZ-DE VERA, PETITIONERS, VS. HEIRS OF GABINO T. VILLANOZA, REPRESENTED BY BONIFACIO A. VILLANOZA, RESPONDENTS.**

### DECISION

**LEONEN, J.:**

Under the Comprehensive Agrarian Reform Law, the landowner may retain a maximum of five (3) hectares of land, but this land must be compact or contiguous. If the area selected for retention is tenanted, the tenant-farmer may choose to remain in the area or be a beneficiary in a comparable area.

This is a Petition for Review on Certiorari<sup>[1]</sup> under Rule 45, seeking to reverse the Court of Appeals' September 26, 2014 Decision<sup>[2]</sup> and June 4, 2015 Resolution,<sup>[3]</sup> which affirmed the August 11, 2011 Decision of the Office of the President and reinstated the February 23, 2005 Order of the Department of Agrarian Reform Regional Director. This case arose from the proceedings in CA-G.R. SP No. 130544.

Leonilo Sebastian Nuñez (Sebastian) owned a land<sup>[4]</sup> measuring "more or less" 2.833 hectares (28,333 square meters) located at Barangay Castellano, San Leonardo, Nueva Ecija.<sup>[5]</sup> This land was covered by Transfer Certificate of Title (TCT) No. NT-143003<sup>[6]</sup> and was registered on March 16, 1976 to "Leonilo Sebastian . . . married to Valentina Averia."<sup>[7]</sup>

On July 7, 1976, Sebastian mortgaged this property to then ComSavings Bank or Royal Savings and Loan Association, now GSIS Family Bank,<sup>[8]</sup> to secure a loan. His loan matured on June 30, 1978, but the bank did nothing to collect the payment due at that time.<sup>[9]</sup>

In 1981, tenant-farmer Gabino T. Villanoza (Villanoza) started tilling Sebastian's land.<sup>[10]</sup>

It was only on December 11, 1997, about 19 years after the maturity of Sebastian's loan, that GSIS Family Bank extrajudicially foreclosed his mortgaged properties including the land tenanted by Villanoza.<sup>[11]</sup> A public auction was held, and GSIS Family Bank emerged as "the highest and only bidder."<sup>[12]</sup>

Sebastian's land title was cancelled and TCT No. NT-271267 was issued in the name of the new owner, GSIS Family Bank.<sup>[13]</sup>

On June 20, 2000, Sebastian filed a complaint before the Regional Trial Court to annul the extrajudicial foreclosure sale.<sup>[14]</sup> Sebastian argued that an action to foreclose the mortgage prescribed after 10 years. GSIS Family Bank's right of action accrued on June 30, 1978,<sup>[15]</sup> but it only foreclosed the property 19 years later.<sup>[16]</sup> Thus, its right to foreclose the property was already barred.<sup>[17]</sup>

While the case was pending at the Regional Trial Court, the Department of Agrarian Reform sent a notice of coverage under Republic Act No. 6657 or the Comprehensive Agrarian Reform Program to GSIS Family Bank, then landowner of the disputed property.<sup>[18]</sup> Neither GSIS Family Bank nor Sebastian exercised any right of retention within 60 days from this notice of coverage.

On November 10, 2000, the government compulsorily acquired from GSIS Family Bank the land covered by TCT No. NT-271267. The bank's land title was cancelled, and TCT No. NT-276395 was issued in the name of the Republic of the Philippines. The Department of Agrarian Reform put a portion of what is now TCT No. NT-276395 under agrarian reform.<sup>[19]</sup>

On November 27, 2000, the Department of Agrarian Reform issued an emancipation patent or Certificate of Land Ownership Award (CLOA No. 00554664) to Villanoza.<sup>[20]</sup> The Certificate of Land Ownership Award title was generated but not yet released as of February 23, 2005.<sup>[21]</sup>

During the pendency of his complaint to annul the extrajudicial foreclosure sale, Sebastian died and his heirs, namely: Valentina A. Nuñez, Felix A. Nuñez, Felixita A. Nuñez, Leonilo A. Nuñez, Jr., Eliza A. Nuñez, Emmanuel A. Nuñez, and Divina A. Nuñez, substituted him.<sup>[22]</sup>

On August 9, 2002, the Regional Trial Court found that GSIS Family Bank's cause of action had prescribed.<sup>[23]</sup> "[T]herefore, the proceedings for extrajudicial foreclosure of real estate mortgages [against Sebastian, as substituted by his heirs,]<sup>[24]</sup> were null and void."<sup>[25]</sup> GSIS Family Bank appealed the case before the Court of Appeals.<sup>[26]</sup>

On March 1, 2004, some of herein petitioners Leonilo A. Nuñez, Jr., Ma. Eliza A. Nuñez, Emmanuel A. Nuñez, Rose Anna Nuñez-De Vera, and Ma. Divina Nuñez-Sernadilla, represented by attorney-in-fact Ma. Eliza A. Nuñez (petitioners), submitted a Sworn Application for Retention (Application for Retention). Their Application for Retention was made pursuant to Republic Act No. 6657 and filed before the Department of Agrarian Reform, naming "Leonilo P. Nu[ñ]ez" (Nuñez, Sr.), instead of Sebastian, as the registered owner of the land.<sup>[27]</sup> It was filed almost four (4) years after the Department of Agrarian Reform issued a notice of coverage over the same property.<sup>[28]</sup>

Petitioners applied to retain this land<sup>[29]</sup> although the stated name of their

predecessor-in-interest "Leonilo Sebastian," as found in TCT No. NT-143003<sup>[30]</sup> or "Leonilo Sebastian Nuñez" as found in *Nuñez v. GSIS Family Bank*, was different from "Leonilo **P.** Nuñez" as found in the Sworn Application for Retention.<sup>[31]</sup>

In the Order dated September 2, 2004, the Department of Agrarian Reform Region III Director Narciso B. Nieto (Regional Director Nieto) denied petitioners' Application for Retention and ordered the release of Certificate of Land Ownership Award in favor of Villanoza. Regional Director Nieto ruled that petitioners were not entitled to retain the land under Republic Act No. 6657, as their predecessor-in-interest was not qualified under Presidential Decree No. 27.<sup>[32]</sup> Thus, his heirs could not avail themselves of a right which he himself did not have.<sup>[33]</sup>

The dispositive portion of the Department of Agrarian Reform Regional Office's September 2, 2004 Order read:

WHEREFORE, premises considered, an ORDER is hereby issued:

1. DENYING the application for retention filed by the heirs of the late Leonilo S. Nuñez, Sr., as represented by their co-heir/attorney-in-fact, Ma. Eliza A. Nuñez, involving the 4.9598 hectares, embraced by TCT Nos. NT-143003; P-8537; and P-9540, situated at Barangay Castellano, San Leonardo, Nueva Ecija, for lack of merit;
2. DIRECTING the DAR personnel concerned to acquire the rest of the landholdings and distribute the same to qualified beneficiaries pursuant to existing DAR policies, rules and regulations; and
3. ORDERING the DAR personnel concerned to issue and release TCT CLOA-CA-19771 with CLOA No. 00554664 covering the 28,833 square meters, more or less, in favor of Gabino T. Villanoza.

SO ORDERED.<sup>[34]</sup>

On September 23, 2004, petitioners filed a Motion for Reconsideration.<sup>[35]</sup>

Meanwhile, Villanoza registered his Certificate of Land Ownership Award title under the Torrens system.<sup>[36]</sup> On November 24, 2004, the Certificate of Land Ownership Award title was cancelled and a new regular title, TCT No. NT-299755, was issued in his name.<sup>[37]</sup>

On February 23, 2005, Regional Director Nieto partially modified his September 2, 2004 Order.<sup>[38]</sup> He held that petitioners were entitled to a retention area of not more than five (5) hectares from the total landholdings, but they could not retain the property covered under TCT No. NT-143003 (now TCT No. NT-299755) as it was neither compact nor contiguous.<sup>[39]</sup> Petitioners were ordered to choose their retained area from the other lots of their predecessor-in-interest.

The dispositive portion of Regional Director Nieto's reconsidered Order<sup>[40]</sup> dated February 23, 2005 read:

WHEREFORE, premises considered, the ORDER, dated September 2, 2004, issued by this Office in the above case is hereby RECONSIDERED, and is accordingly modified, as follows:

1. GRANTING the heirs of the late Leonilo P. Nu[ñ]ez, St., as represented by their co-heir/attorney-in-fact, Ma. Eliza A. Nu[ñ]ez, to retain five (5) hectares of their landholdings at Barangay Castellano, San Leonardo, Nueva Ecija, *provided the same must be compact, contiguous[,] and least prejudicial to the tenants therein pursuant to RA No. 6657, as amended*;
2. MAINTAINING the tenants affected in the retained area as lessees pursuant to RA No. 3844;
3. DIRECTING the DAR personnel concerned to acquire the rest of the landholdings and distribute the same to qualified beneficiaries pursuant to existing DAR policies, rules and regulations; and
4. ORDERING the DAR personnel concerned to issue and release TCT-CA-19771 with CLOA No. 00554664 covering the 28,833 square meters, more or less, in favor of Gabino T. Villanoza.

SO ORDERED.<sup>[41]</sup> (Emphasis in the original)

On March 21, 2005, petitioners appealed the February 23, 2005 Regional Director Order before the Office of Department of Agrarian Reform Secretary Nasser C. Pangandaman (Secretary Pangandaman).<sup>[42]</sup>

In the meantime, this Court reversed the ruling of the Court of Appeals and reinstated that of the Regional Trial Court on November 17, 2005 in *Nuñez v. GSIS Family Bank*.<sup>[43]</sup> It held that GSIS Family Bank's foreclosure of Sebastian's mortgage was null and void and that his heirs were the rightful owners of the property.<sup>[44]</sup> The heirs, however, did not move to execute this Decision.<sup>[45]</sup>

As for the Application for Retention, Secretary Pangandaman directed the cancellation of Villanoza's Certificate of Land Ownership Award title in the Order dated August 8, 2007.<sup>[46]</sup> According to him, Section 6 of Republic Act No. 6657 "[did] not require that the landholding (sought to be retained) should always be compact and contiguous,"<sup>[47]</sup> particularly so if it involved "small landownership of bits and pieces in hectareage."<sup>[48]</sup> The dispositive portion of Secretary Pangandaman's August 8, 2007 Order read:

WHEREFORE, premises considered, the instant Appeal is hereby GRANTED. Accordingly, the Order dated 23 February 2005 issued by the Regional Director of DAR Regional Office-III is hereby REVERSED and SET ASIDE. Thus, a new Order is hereby issued to read as follows:

1. GRANTING the landowners, herein applicants-appellants, the five (5) hectares as their retention area;
2. DIRECTING the [Provincial Agrarian Reform Officer], [Municipal Agrarian Reform Officer], or landowner concerned to initiate the

cancellation of the CLOA No. 00554664 issued to GA[B]INO T. VILLANOZA;

3. GRANTING the tenant to exercise the option whether to remain in the retained area as a leaseholder or be a beneficiary in another agricultural land with similar comparable features, the choice of one forfeits the other option; and
4. DIRECTING the [Municipal Agrarian Reform Officer] concerned to assist the parties in the execution of the Leasehold Agreement, if warranted.

SO ORDERED.<sup>[49]</sup>

On September 6, 2007, Villanoza filed a Motion for Reconsideration (Villanoza's Motion for Reconsideration).<sup>[50]</sup> He argued that the title issued to him was already infeasible and the land it covered was "not compact and contiguous."<sup>[51]</sup>

On April 25, 2008, Villanoza died<sup>[52]</sup> and his heirs substituted him.<sup>[53]</sup>

On December 10, 2008, Secretary Pangandaman resolved to deny Villanoza's Motion for Reconsideration.<sup>[54]</sup>

Respondents heirs of Villanoza appealed before the Office of the President,<sup>[55]</sup> which ruled<sup>[56]</sup> in their favor on August 11, 2011. Interpreting Section 6 of Republic Act No. 6657, it held that the land sought to be retained "must be compact and contiguous,"<sup>[57]</sup> contrary to the view of the Department of Agrarian Reform in its August 8, 2007 Order. Section 6 of Republic Act No. 6657 gives the landowners the right to retain<sup>[58]</sup> up to five (5) hectares<sup>[59]</sup> of land covered by the Comprehensive Agrarian Reform Program.

According to the Office of the President, the proceedings before Regional Director Nieto established that petitioners had other landholdings which, taken together, exceeded the five (5)-hectare retention limit allowed by law. Likewise, it held that Villanoza's title had become "irrevocable and infeasible."<sup>[60]</sup>

The dispositive portion of the Office of the President Decision dated August 11, 2011 read:

WHEREFORE, PREMISES CONSIDERED, the appealed Orders dated August 8, 2007 and December 10, 2008 of the-Honorable Secretary Nasser C. Pangandaman, Department of Agrarian Reform (DAR), are hereby REVERSED and SET ASIDE. The Order dated February 23, 2005 rendered by the Regional Director of DAR Region III is hereby reinstated.

SO ORDERED.<sup>[61]</sup>

Petitioners moved for reconsideration,<sup>[62]</sup> which the Office of the President denied in its Order dated May 30, 2013.<sup>[63]</sup>