

## THIRD DIVISION

**[ G.R. No. 191615, August 02, 2017 ]**

**VICTORIA P. CABRAL, PETITIONER, VS. HEIRS OF FLORENCIO ADOLFO AND HEIRS OF ELIAS POLICARPIO, RESPONDENTS.**

### DECISION

**TIJAM, J.:**

Assailed in this Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 is the Court of Appeals' (CA) Decision<sup>[2]</sup> dated November 23, 2009 in CA-G.R. SP No. 108518. The CA's Resolution<sup>[3]</sup> dated March 15, 2010, denying petitioner's Motion for Reconsideration in the said case is likewise impugned herein.

#### The Facts

Petitioner claims that she is the registered owner of several parcels of land situated, at Barangay Purok (formerly Iba), Meycauayan, Bulacan, originally covered by Original Certificate of Title (OCT) No. 0-1670, subsequently renumbered as OCT No. 0-220 (M), of the Registry of Deeds of Meycauayan, Bulacan.<sup>[4]</sup> The property subject of the instant case are portions of Lot 4 of Plan Psu-164390 covered by the said OCT No. 0-1670.

On October 21, 1972, the Ministry of Agrarian Reform subjected the said land under the coverage of the Operation Land Transfer (OLT) program of the government under Presidential Decree (P.D.) No. 27.<sup>[5]</sup>

In July 1973, petitioner sought to convert her landholdings, which include not only the subject property but also her lands in Marilao and Meycauayan, to non-agricultural purposes.<sup>[6]</sup> In his 2nd Indorsement Letter<sup>[7]</sup> to the DAR Secretary dated October 1, 1973, DAR District Officer Fernando Ortega, stated that per the reports of the Agrarian Reform Team, the subject property was not included in the OLT program under P.D. No. 27, nor has any portion thereof been transferred to a tenant. Thus, District Officer Ortega recommended the conversion of the same into residential, commercial, industrial, or other purposes.<sup>[8]</sup>

On April 25, 1988, Emancipation Patents (EPs) were issued to Gregoria Adolfo, Gregorio Lazaro, Florencio Adolfo, and Elias Policarpio pursuant to the OLT program covering the subject property. Corresponding Transfer Certificates of Titles (TCTs) were then issued to herein respondents Florencio Adolfo on October 24, 1989 and Elias Policarpio on November 8, 1989 upon registration of their respective EPs with the Register of Deeds of Meycauayan, Bulacan<sup>[9]</sup> as follows:<sup>[10]</sup>

NAMES	LOT NO.	EP NO.	TCT NO.	AREA (sq. m.)

Florencio Adolfo	1	A-117858	EP-003(M)	29759
Florencio Adolfo	2	A-117859-H	EP-004(M)	957
Gregoria Adolfo	3	A-117978-H	EP-005(M)	630
Gregoria Adolfo	4	A-117979	EP-006(M)	21793
Gregorio Lazaro	5	A-117980-H	EP-007(M)	839
Gregorio Lazaro	10	A-117981	EP-008(M)	16906
Elias Policarpio	11	A-117983	EP-010(M)	995
Elias Policarpio	12	A-117982-H	EP-009(M)	18019

On January 16, 1990, petitioner filed a petition before the Barangay Agrarian Reform Council (BARC) for the cancellation of the EPs issued in favor of Florencio Adolfo, Gregorio Lazaro, Gregoria Adolfo, and Elias Policarpio.<sup>[11]</sup> On January 19, 1990, petitioner filed another petition for cancellation of the said EPs and TCTs before the DAR. The said petition was, however, forwarded to the DAR Regional Director, who dismissed the case. In a case decided by this Court in 2001 entitled *Victoria P. Cabral v. CA*,<sup>[12]</sup> however, this Court held that the Regional Director had no jurisdiction over the case as it is the PARAD who has jurisdiction over cases involving cancellation of EPs.<sup>[13]</sup>

Meanwhile, in 1994, petitioner filed an OLT Letter Protest before the DAR Regional Director, questioning the coverage of her landholdings under P.D. No. 27, on the ground that the same had already been classified as either residential, commercial, or industrial.<sup>[14]</sup>

In its November 16, 1994 Order, the DAR Regional Director denied the said OLT protest, finding that despite the reclassification of the subject parcels of land, the same will not be a bar in placing the said lands under the OLT program, considering that petitioner's landholdings exceeded 24 hectares.<sup>[15]</sup>

On appeal, the then DAR Secretary Ernesto D. Garilao, in his Order<sup>[16]</sup> dated July 12, 1996, affirmed the DAR Regional Director's Order, declaring that the subject landholdings are covered by the OLT program under P.D. No. 27 as it was only after the landholdings were placed under the OLT program on October 21, 1972 when it was classified as within the residential zone. The Order cited Administrative Order (A.O.) No. 06, series of 1994,<sup>[17]</sup> which provides that reclassification of lands to non-agricultural uses shall not operate to divest tenant-farmers of their rights over lands covered by P.D. No. 27, which were vested prior to June 15, 1988, and also Executive Order (E.O.) No. 228<sup>[18]</sup> which provides that tenant-farmers are deemed full owners of the land they acquired by virtue of P.D. No. 27 as of October 21, 1972. In fine, Secretary Garilao concluded that the petitioner's landholdings are covered by P.D. No. 27.<sup>[19]</sup>

On August 16, 2003, petitioner filed a Petition for Cancellation of Emancipation Patents and Torrens Title<sup>[20]</sup> before the Office of the Provincial Agrarian Reform Adjudicator (PARAD) of Malolos City, Bulacan against the said respondents and the Department of Agrarian Reform (DAR), Region III. In the main, petitioner contended that the issuance of the said EPs and TCTs were violative of applicable agrarian laws considering that the subject property was already classified as residential, hence, not covered by P.D. No. 27. Petitioner invoked a Certification<sup>[21]</sup> dated February 24, 1983 issued by the Zoning Administrator of the Office of the HSRC Deputized Zoning Administration of Meycauayan, Bulacan, and Certification<sup>[22]</sup> dated August 28, 1989 issued by the Zoning Administrator of Meycauayan, Bulacan, both attesting to the classification of the subject property as within the residential zone. Petitioner also averred that the said EPs were issued without due process and without payment of just compensation.<sup>[23]</sup>

On June 18, 2004, the Provincial Reform Adjudicator (PARAD) rendered a Decision<sup>[24]</sup> in favor of the petitioner, thus:

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

1. Ordering the Register of Deeds of Bulacan to cancel the Emancipation Patent Titles issued to the private respondents, as follows: FLOPRENCIO [sic] ADOLFO - TCT No. EP-003, FLORECNCIO [sic] ADOLFO TCT No. RP-004, GREGORIA ADOLFO TCT No. EP-005, GREGORIA ADOLFO - TCT No. EP-006, GREGORIO LAZARO - TCT No. EP-008, ELIAS POLICARPIO - TCT No. 010, ELIAS POLICARPIO - TCT No. 009.
2. Ordering the private respondents and all persons claiming rights under them to vacate the landholdings under their respective possessions and surrender the same to petition.
3. Ordering the Register of Deeds of Bulacan to revived (*sic*) OCT No. 0-220-(M) (formerly OCT No. 0-1670 registered under the name of petitioner Victoria Cabral), insofar as Lot 4 thereof is concerned.

SO ORDERED.<sup>[25]</sup>

Aggrieved, Gregoria Adolfo, Gregorio Lazaro, Heirs of Florencio Adolfo, and Heirs of Elias Policarpio appealed the said decision to the Department of Agrarian Reform Adjudication Board (DARAB).

In its July 29, 2008 Decision<sup>[26]</sup>, the DARAB affirmed PARAD's Decision, thus:

WHEREFORE, premises considered, the Appeal is DENIED for lack of merit and the assailed Decision is hereby affirmed.

SO ORDERED.<sup>[27]</sup>

Undaunted, herein respondents elevated the case to the CA for review.

In its assailed Decision, the CA reversed and set aside the DARAB Decision. The CA

found that the subject land was never converted into a residential land and, therefore, not exempt from the coverage of the government's OLT program under P.D. No. 27, relying heavily upon Secretary Gari1ao's Order above-cited. Hence, the CA concluded that when the predecessors-in-interest of the herein respondents were identified as farmer-beneficiaries and were given EPs/TCTs, they were deemed owners thereof. The CA disposed, thus:

WHEREFORE, the July 29, 2008 Decision of the [DARAB] is hereby REVERSED and SET ASIDE. The Petition for Cancellation of Emancipation Patents and Torrens Titles (Case No. 2-03-02-0242'03) is hereby ordered DISMISSED.

SO ORDERED.<sup>[28]</sup>

Respondents' Motion for Reconsideration was denied in the DARAB's Resolution<sup>[29]</sup> dated March 11, 2009.

Hence, this petition.

### **G.R. No. 198160**

Before We proceed to discuss the instant petition, it is noteworthy that the issue on the coverage of Lot 4 under the OLT program pursuant to P.D. No. 27 had already been settled by this Court in its Decision dated August 31, 2016 in the case of *Victoria P. Cabral v. Gregoria Adolfo, Gregorio Lazaro, and Heirs of Elias Policarpio*.<sup>[30]</sup>

The said case involves the same issues, same assailed decisions of the PARAD and DARAB, same subject property, and same parties (except Gregoria Adolfo and Gregorio Lazaro who were parties in G.R. No. 198160 but not in this case, and Florencio Adolfo who is a party herein but not in G.R. No. 198160).

Essentially, this Court upheld the findings of the PARAD and DARAB, recognizing the zoning reclassification made on the subject property as evidenced by the Certifications dated February 24, 1983 and August 28, 1989 issued by the zoning administrator of Meycauayan, Bulacan above-cited. We also considered therein the 2nd Indorsement Letter of then DAR District Officer Ortega, declaring that petitioner's landholdings were not covered by the OLT program. The Court also found that no CLTs were issued in favor of the respondents therein, which bolstered the fact that the subject property was not covered by P.D. No. 27.

Hence, as it was established that Lot 4 was not covered by the OLT program, this Court declared that the EPs covering the subject lands therein were erroneously issued to the respondents.<sup>[31]</sup>

With this judicial precedent in mind, We now proceed to resolve the instant petition.

### **Issue**

Did the CA err in reversing the PARAD and DARAB's order of cancelling the subject EPs/TCTs?

## The Court's Ruling

We answer in the affirmative.

DAR Administrative Order No. 02-94<sup>[32]</sup> provides that a registered EP or Certificate of Land Ownership Award (CLOA) may be cancelled on the following grounds, to wit:

Grounds for the cancellation of registered EPs or CLOAs may include but not limited to the following:

1. Misuse or diversion of financial and support services extended to the ARB (Agrarian Reform Beneficiaries); (Section 37 of R.A. No. 6657)
2. Misuse of the land; (Section 22 of R.A. No. 6657)
3. Material misrepresentation of the ARB's basic qualifications as provided under Section 22 of R.A. No. 6657, P.D. No. 27, and other agrarian laws;
4. Illegal conversion by the ARB; (Cf. Section 73, Paragraphs C and E of R.A. No. 6657)
5. Sale, transfer, lease or other forms of conveyance by a beneficiary of the right to use or any other usufructuary right over the land acquired by virtue of being a beneficiary, in order to circumvent the provisions of Section 73 of R.A. No. 6657, P.D. No. 27, and other agrarian laws. However, if the land has been acquired under P.D. No. 27/E.O. No. 228, ownership may be transferred after full payment of amortization by the beneficiary; (Sec. 6 of E.O. No. 228)
6. Default in the obligation to pay an aggregate of three (3) consecutive amortizations in case of voluntary land transfer/direct payment scheme, except in cases of fortuitous events and force majeure;
7. Failure of the ARBs to pay for at least three (3) annual amortizations to the LBP, except in cases of fortuitous events and force majeure; (Section 26 of R.A. No. 6657)
8. Neglect or abandonment of the awarded land continuously for a period of two (2) calendar years as determined by the Secretary or his authorized representative; (Section 22 of R.A. No. 6657)
9. The land is found to be exempt/excluded from P.D. No. 27/E.O. No. 228 or CARP coverage or to be part of the landowners' retained area as determined by the Secretary or his authorized representative; and
10. Other grounds that will circumvent laws related to the implementation of agrarian reform program.<sup>[33]</sup> (*emphasis supplied*)

In this case, petitioner maintains that the subject property is excluded from the coverage of P.D. No. 27 as it has already been classified as residential land, invoking the Certifications dated February 24, 1983 and August 28, 1989 issued by the