

SECOND DIVISION

[G.R. No. 202830, June 20, 2016]

SPOUSES ADRIANO SALISE AND NATIVIDAD PAGUDAR, SPOUSES TEODORO VIRTUDAZO AND NECITAS SALISE, JEROME G. DIOLANTO, SPOUSES EULALIO D. DAMASING AND POTENCIANA LABIA, SPOUSES FRANCISCO AND SIMPLICIA BABAYA-ON, SPOUSES RUFINO BUTIHIN AND CECILIA CAGNO, SPOUSES EFITACIO G. PAMISA AND VIRGELIA VIRTUDAZO, DELFIN B. SARINAS, SPOUSES FELIPE C. VIRTUDAZO, JR. AND GRACE TUTO, SPOUSES ANGEL BARBOSA AND FLORENCIA SALISE, SPOUSES FRANKLIN AND LEONORA PAMISA, SPOUSES MARCELO MANIQUE AND CECILIA CARBON, LARRY PAMISA, SPOUSES ENRIQUE CARBON AND ERLINDA SOMO, SPOUSES WILFREDO A. JUANILO AND MINDA VILLARMIA, SPOUSES FELIX REQUILME AND CERINA SALVO, SPOUSES CARLITO FABE AND EMELITA MANGGANA, LUIBEN MAGTO, SPOUSES SERAFIN AND LILIA SURIGAO, SPOUSES HILARIO BACABIS AND RETIFICACION DABLO, SPOUSES REYNALDO S. SALUCOT AND ANECITA DESCALLAR, SPOUSES HAGENIO PAUG AND EVELITA VIRTUDAZO, SPOUSES MAXIMO BORREZ AND VILMA SALISE, SPOUSES FELIMON V. SALVO, JR., EVA MACATOL AND RITA V. SALVO, PETITIONERS, VS. DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD REGION X ADJUDICATOR ABETO SALCEDO, JR. AND RICARDO GACULA, RESPONDENTS.

DECISION

BRION, J.:

Before us is a petition for review on *certiorari*^[1] assailing the resolutions dated May 4, 2012^[2] and July 12, 2012^[3] of the Court of Appeals (CA), Cagayan de Oro City Station, in CA-G.R. SP No. 04425-MIN. On technical grounds, the CA dismissed the appeal (Petition for Review) filed by the petitioners against the resolutions of the Department of Agrarian Reform Adjudication Board (DARAB) Region X in DARAB Case No. UDK-0001-04.

Antecedent Facts

On January 17, 1996, respondent Ricardo Gacula filed a petition^[4] to cancel the Certificates of Land Ownership Award (CLOA) issued to petitioners:^[5] Spouses Adriano Salise and Natividad Pagudar, Spouses Teodoro Virtudazo and Necitas Salise, Jerome G. Diolanto, Sps. Eulalio D. Damasing and Potenciana Labia, Sps. Francisco and Simplicia Babaya-on, Sps. Rufmo Butihin and Cecilia Cagno, Sps. Efitacio G. Pamisa and Virgelia Virtudazo, Delfm B. Sarinas, Sps. Felipe C. Virtudazo, Jr. and Grace Tuto, Sps. Angel Barbosa and Florencia Salise, Sps. Franklin and Leonora Pamisa, Sps. Marcelo Manique and Cecilia Carbon, Larry Pamisa, Sps.

Enrique Carbon and Erlinda Somo, Sps. Carlito Fabe and Emelita Manggana, Luiben Magto, Spouses Serafin and Lilia Surigao, Spouses Hilario Bacabis and Retificacion Dablo, Spouses Reynaldo S. Salucot and Anecita Descallar, Spouses Hagenio Paug and Evelita Virtudazo, Spouses Maximo Borrez and Vilma Salise, Spouses Wilfredo A. Juanilo and Minda Villarmia, Sps. Felix B. Reguarne and Cerina Salvo, Sps. Felimon V. Salvo, Jr. and Eva Macatol, and Rita V. Salvo, over a 30-hectare land in the upper lands of Lomboy, Indahag, Cagayan de Oro City.

On October 23, 1996, Provincial Agrarian Reform Adjudicator (*PARAD*) Leandricia Monsanto dismissed *without prejudice* the petition for cancellation, due to a pending prior application made by Gacula for the exemption of the subject land from the Comprehensive Agrarian Reform Program (*CARP*). Gacula appealed the dismissal of his petition to the Department of Agrarian Reform Adjudication Board (*DARAB*) Central Office in Diliman, Quezon City.

On January 14, 1998, pending Gacula's appeal with the *DARAB*, then Department of Agrarian Reform (*DAR*) Secretary Ernesto Garilao granted Gacula's application to exempt the subject land from the *CARP*. One of the petitioners, Jerome G. Diolanto, filed a motion for reconsideration to Sec. Garilao's order.

On March 4, 1999, *DAR* Secretary Horacio "Boy" Morales granted Diolanto's motion and declared the subject land not exempt from *CARP*. Gacula moved to reconsider this ruling.

On December 1, 1999, Acting *DAR* Secretary Conrado Navarro reversed Sec. Morales' order and upheld Sec. Garilao's order that declared the subject land exempt from *CARP*.

On October 15, 2001, *DARAB* Director Delfin B. Samson issued an Order of Finality to the December 1, 1999 order of Sec. Navarro.

Gacula's Manifestation before the DARAB

On January 12, 2001, the *DARAB* Central Office dismissed Gacula's appeal to the dismissal of his petition for cancellation of the *CLOAs*.

On March 10, 2003, despite the dismissal of the cancellation proceedings, Gacula still filed a Manifestation that he was no longer interested in pursuing his appeal and suggested that the October 23, 1996 decision of *PARAD* Monsanto (that dismissed without prejudice his petition to cancel the petitioners' *CLOAs*) be considered final. In the same manifestation, Gacula requested that Sec. Navarro's December 1, 1999 order be implemented.

Acting on Gacula's manifestation, Adjudicator Abeto Salcedo, Jr. of *DARAB* Region X issued, on November 27, 2003, an order^[6] cancelling the petitioners' *CLOAs* and placing Gacula in possession of the 30-hectare property. The petitioners claimed that Adjudicator Salcedo's November 27, 2003 order was issued without proper notice and hearing.^[7]

On December 1, 2003, Adjudicator Salcedo issued a Writ of Execution^[8] to implement Sec. Navarro's December 1, 1999 order. The petitioners alleged that on

the day following the issuance of the writ of execution, DARAB Sheriff Bienvenido Maestro, together with armed men claiming to be security guards and policemen, immediately fenced the subject land with barbed wire, preventing access to and from their properties.^[9]

The petitioners, represented by new counsel, timely filed an entry of appearance and notice of appeal to Adjudicator Salcedo's November 27, 2003 order. Another motion for reconsideration to the same order was filed by a certain Atty. Antonio Zoilo Velez, a former DAR lawyer who had represented two of the petitioners in earlier proceedings.

In an order^[10] dated December 18, 2003, Adjudicator Salcedo denied the petitioners' notice of appeal and entry of appearance due to improper substitution of counsel. Also, he denied the motion for reconsideration filed by Atty. Velez because his November 27, 2003 order cancelling the petitioners' CLOAs was, according to him, not appealable.^[11]

Petitioners' Urgent Motion with the DARAB

On December 30, 2003, the petitioners filed with the DARAB Central Office an Urgent Motion^[12] to restrain Adjudicator Salcedo from acting on the incidents of the case and from further executing his November 27, 2003 order. **The petitioners contended that Adjudicator Salcedo's orders were illegal and patently null and void for having been issued in excess of authority and in gross violation of the petitioners' rights to due process.**

Almost seven years later, the DARAB, in a resolution^[13] dated April 26, 2011, dismissed the petitioners' urgent motion for lack of jurisdiction. It held that, in alleging that Adjudicator Salcedo had exceeded his authority in issuing the questioned orders, the petitioners' motion was, in effect, a petition for *certiorari* under Rule 65 of the Rules of Court over which the DARAB has no jurisdiction.

The petitioners moved to reconsider but the DARAB denied their motion in a resolution^[14] dated August 1, 2011; hence, they filed a Petition for Review with the CA pursuant to Section 1, Rule XV of the 2009 DARAB Rules of Procedure.

Proceedings before the CA

In a resolution^[15] dated September 9, 2011, the CA (Cagayan de Oro City Station) **partially dismissed the petition for review** insofar as the following sixteen (16) petitioners were concerned: Jerome G. Diolante, Sps. Carlito G. Fabe and Emelita Manggana, Luiben N. Magto, Sps. Serafin and Lilia Surigao, Sps. Hilario S. Bacabis and Retificacion Dablo, Sps. Reynaldo S. Salucot and Anecita Descallar, Sps. Hagenio Paug and Evelita Virtudazo, Sps. Maximo M. Borres and Vilma Salise, and Sps. Felimon V. Salvo, Jr. and Eva Macatol, **for their failure to sign the Verification and Certification of Non-Forum Shopping** attached to the petition.

In the same resolution, **the CA directed the other remaining petitioners**, through their counsel, **to correct the procedural defects of their petition:** (a) failure to furnish the DARAB Central Office with a copy of their petition, and (b)

failure to allege the dates of their receipt of the DARAB's April 26, 2011 resolution and of the filing of their motion for reconsideration thereto.

Petitioners' 1st Compliance with Motion to Admit Joint Affidavits of Merit

On September 22, 2011, the petitioners filed with the CA their compliance^[16] with motion to admit the joint affidavits of merit executed by the 16 petitioners named in the September 9, 2011 resolution of the CA. The affidavits stated the reasons why the 16 petitioners failed to sign the verification and certification of non-forum shopping attached to the petition for review.

In a resolution dated May 4, 2012, the **CA noted the petitioners' compliance** but observed another defect on the verification and certification of non-forum shopping, *i.e.*, **some of the affiants failed to present competent evidence of identity that the notarization required**. Thus, **the CA directed the petitioners-affiants who failed to provide the necessary proof of identity to submit the required proof within ten (10) days from receipt of its resolution**; otherwise, their petition for review shall be dismissed.

In the same resolution, the **CA denied the petitioners' motion to admit** because the affidavits of merit attached to the motion also lacked the required proof of identity from the affiants.

The petitioners received a copy of the CA's May 4, 2012 resolution on May 16, 2012.

On May 25, 2012, the petitioners filed a motion for extension of time of twenty (20) days or until June 15, 2012, within which to submit a new verification and certification of non-forum shopping.

Petitioners' 2nd Compliance with Motion for Reconsideration

On June 7, 2012, the petitioners filed their compliance with motion for reconsideration (to the denial of their motion to admit) with the CA.

In a resolution dated July 12, 2012, the **CA denied the petitioners' compliance with motion for reconsideration** because: (1) the filing thereof was seven (7) days late considering that the petitioners received its May 4, 2012 resolution on May 16, 2012 and had only ten (10) days or until May 31, 2012 within which to file their compliance; and (2) the signatures on the new verification and certification showed "some variations" with those found in the verification and certification previously submitted by the petitioners. **Consequently, the CA dismissed outright the petitioners' petition for review**, prompting the petitioners to file a petition for review on *certiorari* before this Court.

The Petition

In the present petition, the petitioners mainly pray for the liberal application of the Rules of Procedure to their case. They contend that the CA erred in dismissing their petition for review purely on technical grounds, without consideration of the substantive issues raised in their petition.