

## THIRD DIVISION

[ G.R. No. 179685, June 19, 2013 ]

**CONRADA O. ALMAGRO, PETITIONER, VS. SPS. MANUEL AMAYA, SR. AND LUCILA MERCADO, JESUS MERCADO, SR., AND RICARDO MERCADO, RESPONDENTS.**

### D E C I S I O N

**VELASCO JR., J.:**

This Petition for Review on Certiorari under Rule 45 assails and seeks to set aside the September 29, 2006 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 00111 and its September 11, 2007 Resolution<sup>[2]</sup> denying petitioner's motion for reconsideration. The assailed issuances effectively affirmed the October 19, 2004 Decision of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB Case Nos. 6858-59, which in turn reversed the Decision of the Regional Agrarian Reform Adjudicator (RARAD) in consolidated DARAB Case Nos. VII-140-C-93 and VII-C-90-95 declaring the property in question as outside the coverage of the Operation Land Transfer (OLT) scheme.

Central to this controversy is a parcel of land, denominated as Lot No. 13333, with an area of 6,000 square meters, more or less, located in Dalaguete, Cebu and covered by Tax Declaration No. 21-14946. Purchased in 1960<sup>[3]</sup> by petitioner Conrada Almagro (Conrada), Lot No. 13333 is bordered by a river in the north, a highway in the south, a public market in the east, and a privately-owned lot in the west. About 738 square meters of Lot No. 13333 is of residential-commercial use.

### Antecedent Facts

In 1976, Conrada allowed respondent spouses Manuel Amaya, Sr. and Lucila Mercado (Sps. Amaya) to construct a house on a 46-square meter portion of Lot No. 13333 on the condition that no additional improvements of such nature requiring additional lot space shall be introduced and that they shall leave the area upon a 90-day notice. A decade later, Conrada asked the Amayas to vacate. Instead of heeding the vacation demand, the Amayas, in a virtual show of defiance, built permanent improvements on their house, the new structures eating an additional 48 square meters of land space. On November 3, 1993 Conrada filed a Complaint against the Sps. Amaya before the DARAB-Region 7 for "Ejectment, Payment of Rentals with Damages," docketed as DARAB Case No. VII-140-C-93.

In their Answer, the Amayas asserted possessory rights over the area on which their house stands and a portion of subject Lot No. 13333 they are cultivating, being, so they claimed, monthly-rental paying tenant-farmers. Said portion, the Amayas added, has been placed under OLT pursuant to Presidential Decree No. (PD) 27.<sup>[4]</sup>

Obviously disturbed by the Amayas' allegations in their answer, Conrada posthaste repaired to different government offices in Cebu to verify. From her inquiries, Conrada learned that herein respondents Manuel Amaya, Sr. (Manuel), Jesus Mercado, Sr. (Jesus) and Ricardo Mercado (Ricardo) have made tenancy claims over an area allegedly planted to corn area each was tilling. To add to her woes, she discovered that Emancipation Patents (EPs) have been generated over portions of Lot No. 13333.

EP Nos. 176987, 176985 and 176986 covering 1,156, 2,479, and 1,167 square meters, respectively, were issued in favor of Manuel, Jesus and Ricardo, respectively, on February 17, 1995. Shortly thereafter, the corresponding original certificates of title (OCTs), i.e., OCT Nos. 6187,<sup>[5]</sup> 6188<sup>[6]</sup> and 6189<sup>[7]</sup> issued. As thus surveyed and partly titled, what was once the subject 6,000-square meter Lot 13333 has now the following ownership profile:

EP/OCT Holder	Patent No.	Title No.	Area
Manuel Amaya, Sr.	EP No. 176987	OCT No. 6189	1,156 sq. mtrs.
Jesus Mercado, Sr.	EP No. 176985	OCT No. 6187	2,479 sq. mtrs.
Ricardo Mercado	EP No. 176986	OCT No. 6188	1,167 sq. mtrs.
		Total Area	4,802 sq. mtrs.

In sum, the DAR awarded a total of 4,802 square meters of the subject lot to Jesus, Ricardo and Manuel, leaving Conrada with 1,198 square meters, a 738-square meter portion of which is classified as residential-commercial.

On October 16, 1995, Conrada filed a petition also before DARAB-Region 7 this time against Manuel, Jesus and Ricardo, praying, in the main, for the cancellation of EPs, docketed as DARAB Case No. VII-C-90-95. Conrada would later amend her petition to include as additional respondents the DAR Regional Director in Cebu, the Provincial Agrarian Reform Officer and the Register of Deeds of Cebu. The gravamen of Conrada's gripe is that the subject lot has been primarily devoted to vegetables production and cultivation, not to corn or rice, thus, outside the ambit of the OLT under PD 27. And as a corollary, obviously having in mind a DAR issuance treating "material misrepresentation" as a ground for the cancellation of an EP, she ascribed bad faith and gross misrepresentation on respondents when they had themselves listed as farmer-beneficiaries under the OLT scheme when they fully knew for a fact that vegetables were the primary crops planted on their respected areas since October 1972. And even as she rued the issuance of the EPs, most especially in favor of Manuel who she depicted as unqualified to be a PD 27 farmer-beneficiary being a landowner himself, Conrada denied receiving compensation payment from private respondents from the time of the issuance of the EPs.

In their joint *Answer & Position Paper*,<sup>[8]</sup> private respondents asserted their status as qualified farmer-beneficiaries of the OLT scheme. Their nonpayment or remittance of a share of their harvest to Conrada was, as they argued, justified under DAR Memorandum Circular (MC) No. 6, Series of 1978, which provided that once an agricultural land is placed under the OLT program, lease rentals otherwise

due to a landowner may be paid to the Land Bank of the Philippines. Finally, private respondents averred, Conrada knew well of the OLT coverage of subject Lot No. 13333 as she in fact represented her siblings in their protest against the OLT coverage of their own landholdings in Dalaguete and Alcoy in 1989.

### **Ruling of the RARAD**

In a joint Decision<sup>[9]</sup> dated June 10, 1997, RARAD Arnold C. Arrieta--on the issue of the propriety of bringing in the subject property within, or excluding it from, the coverage of the OLT and the implications of a determination, one way or another--found for Conrada, pertinently disposing as follows:

WHEREFORE, in view of the foregoing, DECISION is hereby given as follows:

1. Declaring the coverage of Lot 13333 under Operation Land Transfer improper;
2. Ordering the Register of Deeds of Cebu to cause the cancellation of E.P. No. 176987 covered by OCT No. 6187, E.P. No. 176986 covered by OCT No. 6188, issued in the name of (sic) of Manuel Amaya, Sr., Ricardo Mercado and Jesus Mercado, respectively;
3. Ordering the Land Bank of the Philippines to turn over the amount of money paid (sic) private respondents to them in favor of Conrada Almagro;
4. Dismissing the ejectment case filed by plaintiff against herein private respondents for lack of merit;
5. Ordering the MARO concerned to assist the parties in the execution of lease rentals on the subject landholdings.

RARAD Arrieta predicated his case disposition on the finding that the disputed portions of the subject lot are primarily devoted to vegetable cultivation, which, thus, brings them outside of OLT coverage. In substantiation, he cited and drew attention to the following documentary and testimonial evidence: (1) the Certifications issued by the Municipal Agrarian Reform Officer (MARO) and the Municipal Assessor of Dalaguete, Cebu dated September 27, 1995 and October 4, 1995, respectively, attesting that subject lot is primarily devoted to vegetables since 1972; (2) the parallel admission of respondents made in their January 29, 1996 Answer in DARAB Case No. VII-C-90-95; (3) respondent Manuel's December 17, 1996 affidavit stating that he raised vegetables during the *pangulilang* and *pang-enero* seasons, resorting to corn crops only during the *panuig* season; and (4) Manuel's testimony given in response to clarificatory questions propounded by the Hearing Officer on December 17, 1996 that the corn he planted on his claimed portion was only for his consumption.

Taking cognizance, however, of the agricultural nature of the disputed parcels and

the existing land tenancy relation between the private respondent, on one hand, and Conrada, on the other, the RARAD declined to proceed with the prayed ouster of respondents from their respective landholdings. To the RARAD, respondents' act of stopping payment of land rental at some point was justified under DAR MC No. 6, Series of 1978, hence, cannot, under the premises, be invoked to justify an ouster move.

Respondent spouses, et al., appealed to the DARAB Proper.

### **Ruling of the DARAB**

On October 19, 2004, in DARAB Case Nos. 6858-6859, DARAB issued a Decision upholding the validity of the issuance of the EPs to Manuel et al., thus effectively recognizing their tenurial rights over portions of Lot No. 13333. The *fallo* of the DARAB Decisions reads:

WHEREFORE, premises considered, the assailed Decision is SET ASIDE and judgment is hereby rendered:

1.) **UPHOLDING the validity and efficacy of EP** Nos. 176987, 176986, and 176985 issued in the names of Manuel Amaya, Sr., Ricardo Mercado and Jesus Mercado, Sr. respectively;

2.) **DISMISSING** the above-mentioned complaints filed against respondents-appellants for lack of merit; and

3.) **ORDERING** the Land Bank of the Philippines to pay the complainant-appellee the full amount paid by the respondents-appellants.

SO ORDERED.<sup>[10]</sup> (Emphasis added.)

From this adverse ruling, Conrada elevated the case to the CA.

### **Ruling of the CA**

By Decision dated September 29, 2006, the CA affirmed that of the DARAB, thus:

WHEREFORE, premises considered, the instant petition is DENIED, and the assailed Decision dated October 19, 2004 of the Department of Agrarian Reform Adjudication Board, Diliman, Quezon City in DARAB Cases Nos. 6858-6859 is hereby AFFIRMED.

SO ORDERED.

Like the DARAB, the appellate court predicated its action on the following interacting premises: (1) Respondents did not, vis-à-vis their identification as OLT beneficiaries, commit an act constituting material misrepresentation, the issuance of an EP following as it does a "tedious process" involving the identification and classification of the land as well as the determination of the qualification of the farmer-

beneficiaries; (2) Conrada has not, through her evidence, overturned the presumptive validity of the issuance of the EPs in question; and (3) Section 12(b) of PD 946 vests on the DAR Secretary the sole prerogative to identifying the land to be covered by PD 27. The CA wrote:

Petitioner further contends that the DARAB totally ignored the evidence on record which preponderantly proved that vegetables have been and are still the principal crops planted on the litigated land.

We are not persuaded.

The DARAB cited the [A.O.] no. 2, [s.] of 1994 of the DAR in the assailed decision to show that one of the grounds in the cancellation of an [EP] is the material misrepresentation in the agrarian reform beneficiaries' qualification as provided under RA 6657, P.D. No. 27 x x x. Contrary to the assertion of the petitioner, nowhere can it be read in the challenged decision that it said that under the provisions of [A.O.] No. 2 x x x the [EPs] could no longer be challenged. What can be gleaned in the assailed judgment is that DARAB had not given credence to the allegation of the petitioner that 'respondents acted with evident bad faith x x x and with gross misrepresentation when they allowed themselves to be identified and listed as alleged beneficiaries of [OLT], they themselves knowing fully well that their primary crops since October 21, 1972 x x x have been vegetables.' Stated differently, the DARAB had found that the petitioner had not sufficiently proven her allegation of bad faith x x x.

Also unmeritorious is the contention of petitioner that the evidence on record would prove that the land in controversy had been devoted to vegetable production and not to rice or corn, thus not covered under P.D. 27. The evidence alluded to by petitioner x x x could not sufficiently overcome the validity of the [EPs] issued to respondents. As aptly observed by the DARAB[,] the generation of these [EPs] went through tedious process x x x. The administrative identification and classification of the land as well as the determination of the qualification of the farmer-beneficiaries are **exclusively the functions of the Secretary of Agrarian Reform or his representative as provided under Section 12 (b) of P.D. No. 946** x x x.<sup>[11]</sup>

From the foregoing Decision, Conrada moved, but was denied reconsideration per the CA's equally assailed Resolution of September 11, 2007.

Hence, the instant petition.

### **The Issues**

Petitioner contends: "The Honorable [CA] gravely erred in interpreting 'material misrepresentation' as provided for in Administrative Order No. 2 (AO 2), Series of 1994 of the [DAR] x x x."<sup>[12]</sup>

The underlying thrust of this petition turns on the critical issue of the propriety of