

SECOND DIVISION

[G.R. No. 170018, September 23, 2013]

**DEPARTMENT OF AGRARIAN REFORM, REPRESENTED BY OIC-
SECRETARY NASSER C. PANGANDAMAN, PETITIONER, VS. THE
COURT OF APPEALS AND BASILAN AGRICULTURAL TRADING
CORPORATION (BATCO), RESPONDENTS.**

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*^[1] is the Decision^[2] dated September 6, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 55377 which: (a) reversed and set aside the Order^[3] dated February 25, 1999 of the Secretary of the Department of Agrarian Reform (DAR); (b) cancelled Transfer Certificates of Title (TCT) Nos. T-1012,^[4] T-1013,^[5] and T-1014^[6] in the name of Malo-ong Canal Farmers Agrarian Reform Multi-Purpose Cooperative (MCFARMCO); and (c) directed the Registry of Deeds of the Province of Basilan (Basilan RD) to issue a new set of titles in favor of private respondent Basilan Agricultural Trading Corporation (BATCO).

The Facts

BATCO was the owner of several parcels of agricultural land, with an aggregate area of 206.5694 hectares (has.), situated in Malo-ong^[7] Canal, Lamitan, Province of Basilan (Basilan) and covered by TCT Nos. T-7454,^[8] T-7455,^[9] and T-7456^[10] (subject lands).^[11] On September 20, 1989, the aforesaid lands were voluntarily offered for sale (VOS) to the government pursuant to Section 19^[12] of Republic Act No. (RA) 6657,^[13] otherwise known as the "Comprehensive Agrarian Reform Law of 1988," for a consideration of P12,360,000.00.^[14] In 1992, BATCO was notified^[15] that the 153.8801 hectare portion of the subject lands (subject portion), consisting of Lot Nos. 3, 4, and 5, was being placed under the compulsory acquisition scheme by the DAR.^[16]

On January 6, 1993, BATCO reiterated its offer to sell the entire 206.5694 has. of the subject lands, but this time to include the improvements thereon, and for a higher consideration of P32,000,000.00.^[17] On May 6, 1997, BATCO received a Notice of Land Valuation and Acquisition^[18] dated April 15, 1997 from the DAR Provincial Agrarian Reform Officer (PARO), offering it the amount of P7,501,228.39 for the subject portion.^[19] BATCO rejected^[20] the valuation and opposed the same before the DAR Adjudication Board (DARAB).^[21] In view of BATCO's rejection, the DAR – following the procedure under Section 16(e)^[22] of RA 6657 – directed the Land Bank of the Philippines (LBP) to deposit the compensation in cash and in agrarian reform bonds^[23] and thereafter requested^[24] the Basilan RD to issue TCTs

in the name of the Republic of the Philippines (Republic). In the meantime, the subject portion was surveyed and the beneficiaries were accordingly identified. After which, DAR Regional Director Rogelio E. Tamin (Director Tamin) directed the PARO to generate and issue the corresponding Certificates of Land Ownership (CLOAs) in favor of the identified beneficiaries even over BATCO's protest.^[25]

On February 9, 1998, then DAR Secretary Ernesto Garilao directed Director Tamin and the PARO to proceed with the registration and distribution of the CLOAs to the said identified beneficiaries.^[26]

In a letter dated March 2, 1998 to Director Tamin,^[27] BATCO requested for the exemption of the subject portion, citing the case of *Luz Farms v. DAR Secretary*^[28] (*Luz Farms*) and DAR Administrative Order No. (AO) 09, Series of 1993^[29] (DAR AO 09-93).^[30] On May 6, 1998, BATCO filed before the DAR Regional Office a petition^[31] for the exemption of the subject portion from the coverage of the government's Comprehensive Agrarian Reform Program (CARP). It alleged that almost all of the entire subject lands have been devoted to cattle and livestock production since their acquisition in 1987,^[32] warranting their exemption from CARP coverage in accordance with the ruling in *Luz Farms* and the provisions of DAR AO 09-93. It claimed that as of March 15, 1998, there were 150 heads of cattle, 50 heads of swine, and 50 heads of goats in the subject portion.^[33] Meanwhile, BATCO's certificates of title over the foregoing were cancelled and new titles were issued in the name of the Republic on July 17, 1998.^[34]

The DAR Regional Director's Ruling

On August 12, 1998, Director Tamin issued an Order^[35] (August 12, 1998 Order) dismissing BATCO's petition, holding that based on the DAR's ocular inspection/investigation, the subject portion was "not exclusively, directly and actually used for livestock, poultry, and swine raising as of June 15, 1988[,], the date of effectivity of RA 6657, and contrary to the spirit and intent of [DAR AO 09-93]."^[36] Hence, the subject portion is not exempt from CARP coverage. Moreover, under DAR AO 09, Series of 1990, VOS of lands to the government, with the exception of lands within the retention limits, may no longer be withdrawn.^[37]

BATCO appealed^[38] to the Office of the DAR Secretary, reiterating^[39] its claim that the subject portion was devoted to cattle production prior to June 15, 1988 as evidenced by the appended certificates of ownership of large cattle (certificates of livestock ownership) which, according to it, "should have been the major basis in the determination of whether or not a particular landholding is devoted to such production, as claimed."^[40]

In the interim, the Republic's certificates of title were cancelled on October 6, 1998 with the registration of the CLOAs in the name of MCFARMCO for the benefit of its 54 members. Accordingly, new certificates of title,^[41] i.e., TCT Nos. T-1012, T-1013, and T-1014, were issued in favor of MCFARMCO.

The DAR Secretary's Ruling

On February 25, 1999, then DAR Secretary Horacio R. Morales, Jr. (Secretary Morales) issued an Order^[42] (February 25, 1999 Order), denying the appeal on the ground that BATCO failed: 1) to present substantial evidence to show that the subject portion was exclusively, directly and actually used for livestock, poultry, and swine raising prior to June 15, 1988; and 2) to comply with the livestock and infrastructure requirements under DAR AO 09-93.^[43] Secretary Morales observed that: (a) none of the certificates of livestock ownership appended to the records predates the effectivity of RA 6657;^[44] (b) more than half^[45] of the cattle "was registered and presumably brought into the property only on March 13, 1998 onwards, barely three months before [BATCO] filed [its] application for exemption with the DAR Provincial Office on May 6, 1998";^[46] and (c) BATCO's act of submitting the subject lands (including the subject portion) under the VOS scheme is an admission that they were subject to CARP coverage.^[47] Finding that the act of changing or converting the lands to livestock, poultry and swine raising after June 15, 1988 was without an approved conversion, Secretary Morales directed the Municipal Agrarian Reform Officer concerned to conduct an investigation^[48] for possible violations of Section 73(c) and (e) of RA 6657.^[49]

BATCO filed a motion for reconsideration^[50] and a supplemental motion,^[51] averring that prior to its acquisition of the subject lands from the Marcelo Mendoza Development Corporation (Mendoza Plantation) on February 4, 1987, the latter was already engaged in livestock raising and had facilities such as shade/barn, feed storage, corals and gates, which BATCO subsequently improved and developed.^[52] BATCO further admitted that only a portion (about 100 has.) of the subject lands was devoted to livestock raising, for which the corresponding exemption was prayed.^[53] It explained that the necessary documents were in the possession of the previous owner, hence, it was unable to produce the same before the DAR Regional Director.^[54] In support of the foregoing motions, BATCO submitted,^[55] among others, Certificates of Ownership of Large Cattle Nos. B-3144051 to B-3144150^[56] dated between July 10, 1987 to August 15, 1987,^[57] and the Joint Affidavit^[58] of barangay officials of Barangays Tumakid, Maloong San Jose, Maloong Canal, and Buahan, all in Lamitan, Basilan declaring that BATCO is engaged in large cattle raising. Nonetheless, BATCO affirmed that it is still offering 100 has. of the subject lands for the CARP.^[59]

On August 31, 1999, Secretary Morales issued an Order^[60] denying BATCO's motion for reconsideration. He gave no credence to the certificates of livestock ownership belatedly submitted by BATCO, observing that the absence of a sufficient justification for its failure to present such certificates earlier casts doubt to their veracity and genuineness.^[61] Further, he held that *laches* had set in, especially considering that the petition was filed only in 1998, or long after the orders for coverage were issued in 1992.^[62] Finally, he pointed out that BATCO failed to present proof that it has met the infrastructure requirements under DAR AO 09-93.^[63]

The Proceedings Before the CA

BATCO's appeal was initially dismissed^[64] but subsequently reinstated by the CA.^[65]

On September 6, 2005, the CA issued a Decision^[66] reversing and setting aside Secretary Morales' February 25, 1999 Order. It ruled that *estoppel* does not lie against BATCO considering that the pertinent law and regulations did not provide for a prescriptive period for the filing of exemption from CARP coverage.^[67] Moreover, in the light of *Luz Farms*, a petition for exemption is not even necessary so long as the landholdings are devoted to livestock, poultry, and swine raising, thus, rendering DAR AO 09-93 ineffective and inconsequential.^[68]

The CA gave credence to BATCO's documentary evidence to support its claim of the existence and presence of livestock in the lands in question starting the year 1987 consisting of: (a) the Certification^[69] dated March 26, 1998 of the Municipal Agriculturist of Lamitan, Basilan (Municipal Agriculturist Certification) as to the number of cattle found in the area; (b) the photographs^[70] of the livestock therein allegedly taken on May 31, 2001 and July 5, 2005; and (c) the affidavits^[71] of former municipal mayors^[72] of Lamitan, Basilan – namely, Wilfrido C. Furigay and Ramon Garcia, Jr. – attesting to the existence and presence of livestock in the subject lands starting the year 1987. The CA likewise condemned the cancellation of BATCO's certificates of title prior to full payment of the compensation and prior to the decision on the petition for exemption as violative of BATCO's right to procedural and substantive due process.^[73] Corollarily, the CA cancelled TCT Nos. T-1012, T-1013 and T-1014 in the name of MCFARMCO and directed the Basilan RD to issue a new set of titles in BATCO's favor.^[74]

The Issue Before the Court

The essential issue in this case is whether or not the CA gravely abused its discretion in excluding/exempting the subject lands from CARP coverage despite BATCO's admission that only a portion thereof was devoted to livestock raising and considering its previous voluntary offer of the lands to the government under the VOS scheme.

The Court's Ruling

The petition is meritorious.

Under RA 6657, the CARP shall cover all public and private agricultural lands, including other lands of the public domain suitable for agriculture, regardless of tenurial arrangement and commodity produced.^[75] Section 3(c) thereof defines "agricultural land" as land devoted to agricultural activity and not classified as mineral, forest, residential, commercial or industrial land. Lands devoted to livestock, poultry, and swine raising are classified as industrial, not agricultural lands and, thus, exempt from agrarian reform. As such, the DAR has no power to regulate livestock farms.^[76]

Nevertheless, the determination of the land's classification as either an agricultural

or industrial land – and, in turn, whether or not the land falls under agrarian reform exemption – must be preliminarily threshed out before the DAR, particularly, before the DAR Secretary. Verily, issues of exclusion or exemption partake the nature of Agrarian Law Implementation (ALI) cases which are well within the competence and jurisdiction of the DAR Secretary.^[77] Towards this end, the latter is ordained to exercise his legal mandate of excluding or exempting a property from CARP coverage based on the factual circumstances of each case and in accordance with the law and applicable jurisprudence.^[78] Thus, considering too his technical expertise on the matter, courts cannot simply brush aside his pronouncements regarding the status of the land in dispute, *i.e.*, as to whether or not it falls under CARP coverage. As held in *DAR v. Oroville Development Corp.*:^[79]

We cannot simply brush aside the DAR's pronouncements regarding the status of the subject property as not exempt from CARP coverage considering that the DAR has unquestionable technical expertise on these matters. Factual findings of administrative agencies are generally accorded respect and even finality by this Court, if such findings are supported by substantial evidence, a situation that obtains in this case. **The factual findings of the Secretary of Agrarian Reform who, by reason of his official position, has acquired expertise in specific matters within his jurisdiction, deserve full respect and, without justifiable reason, ought not to be altered, modified or reversed.** (Emphases supplied)

It is settled that in order to be entitled to exclusion/exemption, it must be shown that the land is exclusively devoted to livestock, swine or poultry raising.^[80] The land must be shown to have been used for such purposes as of the effectivity of RA 6657, or on June 15, 1988,^[81] in order to prevent any fraudulent declaration of areas supposedly used for these purposes as well as to protect the rights of agrarian beneficiaries therein. This is in consonance with Section 73(c) of RA 6657 which prohibits the conversion by any landowner of his agricultural land into any non-agricultural use with intent to avoid the application of RA 6657 to his landholdings and to dispossess his tenant farmers of the land tilled by them.

A thorough review of the records reveals no substantial evidence to show that the entirety of the subject lands were exclusively devoted to livestock production since June 15, 1988 so as to warrant their exclusion/exemption from CARP coverage and the consequent cancellation of MCFARMCO's certificates of title. In fact, contrary to its original submission that almost all of the entire 206.5694 has. landholding has been devoted to cattle and livestock production since their acquisition in 1987,^[82] BATCO subsequently admitted in its Supplemental Motion for Reconsideration of the Order dated 25 February 1999^[83] (supplemental motion for reconsideration) that only a portion of the subject lands was actually devoted to livestock raising, for which the exemption of not less than 100 has. was sought.^[84] On this score alone, the CA gravely abused its discretion in declaring the subject lands as exempt from CARP coverage and ordering the cancellation of MCFARMCO's certificates of title and the issuance of new titles in BATCO's favor.

It must be further pointed out that the subject lands were offered by BATCO to the government under the VOS scheme on September 20, 1989,^[85] which offer was