604 Phil. 420

THIRD DIVISION

[G.R. No. 166748, April 24, 2009]

LAUREANO V. HERMOSO, AS REPRESENTED BY HIS ATTORNEY-IN-FACT FLORIDA L. UMANDAP, PETITIONER, VS. COURT OF APPEALS AND HEIRS OF ANTONIO FRANCIA AND PETRA FRANCIA, NAMELY: BENJAMIN P. FRANCIA, CECILIA FRANCIA, AMOS P. FRANCIA, JR., FRANCISCO F. VILLARICA, DANILO F. VILLARICA, RODRIGO F. VILLARICA, MELCHOR F. VILLARICA, JESUS F. VILLARICA, BENILDA F. VILLARICA AND ERNESTO F. VILLARICA, RESPONDENTS.

DECISION

NACHURA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Decision[1] dated October 15, 2004 and the Resolution[2] dated January 19, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 77546.

The case involves parcels of land located at Malhacan, Meycauyan, Bulacan, identified as Lot No. 3257 owned by Petra Francia and Lot 3415 owned by Antonio Francia. The lots comprises an area of 2.5 and 1.5850 hectares, respectively, and forms part of a larger parcel of land with an area of 32.1324 hectares co-owned by Amos, Jr., Benjamin, Cecilia, Petra, Antonio and Rufo, all surnamed Francia.[3]

Since 1978, petitioner and Miguel Banag (Banag) have been occupying and cultivating Lot Nos. 3257 and 3415 as tenants thereof. They filed a petition for coverage of the said lots under Presidential Decree (P.D.) No. 27.[4] On July 4, 1995, the Department of Agrarian Reform (DAR) issued an order granting the petition, the dispositive portion of which reads:

> WHEREFORE, foregoing facts and jurisprudence considered, Order is hereby issued:
>
> 1. PLACING the subject two (2) parcels of land being tenanted by petitioners Laureano Hermoso and Miguel Banag situated at Malhacan, Meycauayan, Bulacan, owned by Amos Francia, et al. under the coverage of Operation Land Transfer pursuant to P.D. 27; and
>
> 2. DIRECTING the DAR personnel concerned to process the issuance of emancipation patents in favor of said Laureano Hermoso and Miguel Banag after a parcellary mapping have been undertaken by the Bureau of Lands over the subject landholdings.
>
> SO ORDERED.[5]

Respondents filed an omnibus motion for reconsideration and reinvestigation. On December 9, 1995, the DAR affirmed with modification the earlier order, and disposed of the case as follows:

> WHEREFORE, all premises considered, ORDER is hereby issued AFFIRMING the first dispositive portion of the Order, dated July 4, 1995, issued in the instant case, but MODIFYING the second dispositive portion of the same now to read, as follows:
>
> 1. PLACING the subject two (2) parcels of land being tenanted by petitioners Laureano Hermoso and Miguel Banag situated at Malhacan, Meycauayan, Bulacan, owned by Amos Francia, et al. under the coverage of Operation Land Transfer pursuant to P.D. 27; and
>
> 2. DIRECTING the DAR personnel concerned to hold in abeyance the processing of the emancipation patent of Miguel Banag until the issue of tenancy relationship in DARAB Cases Nos. 424-Bul'92 and 425-Bul'92 is finally resolved and disposed.
>
> No further motion of any and/or the same nature shall be entertained.
>
> SO ORDERED.[6]

In a separate development, petitioner and Banag filed with the Department of Agrarian Reform Adjudication Board (DARAB) consolidated Cases Nos. 424-BUL-92 and 425-BUL-92. The cases delved on whether both petitioner and Banag are tenants of respondents in the subject landholding. On June 3, 1996, the DARAB rendered a Decision[7] upholding the tenancy relationship of petitioner and Banag with the respondents. Respondents filed a motion for reconsideration but the same was denied. A petition for review on *certiorari* was filed before the CA. However, the petition was denied on technical grounds in a Resolution[8] dated October 9, 1996. A motion for reconsideration was filed, but the same was likewise denied in a Resolution[9] dated December 27, 1996. The case was eventually elevated to this Court in G.R. No. 127668. On March 12, 1997, the Court denied the petition for lack of verification,[10] and subsequently, also denied the motion for reconsideration in a Resolution[11] dated July 14, 1997.

Earlier, on January 20, 1997, Banag filed before the DAR, an urgent ex-parte motion for the issuance of an emancipation patent. On March 13, 1997, the DAR granted the motion.[12] On March 21, 1997, respondents filed a motion for reconsideration. They claimed that the lands involved have been approved for conversion to urban purposes in an Order[13] dated June 5, 1973 issued by the DAR Secretary. The conversion order stated that the Operation Land Transfer (OLT) under Presidential Decree (P.D.) No. 27 does not cover the subject parcels of land.[14] On March 10, 1998, the DAR issued an Order[15] affirming the March 13, 1997 order granting the motion for issuance of emancipation patent in favor of Banag. On March 30, 1998, respondents filed a notice of appeal and correspondingly filed their appeal memorandum.[16] On April 21, 2003, the Office of the President through the Deputy Executive Secretary rendered a Decision[17] denying respondents' appeal. The dispositive portion of the decision reads:

> WHEREFORE, premises considered, the instant appeal is hereby DISMISSED and the questioned Order dated 10 March 1998 of the DAR Secretary AFFIRMED *in toto*.
>
> Parties are required to INFORM this Office, within five (5) days from notice, of the dates of their receipt of this Decision.
>
> SO ORDERED.[18]

Respondents then filed with the CA a petition for review under Rule 43 of the Rules of Court. They maintained that P.D. No. 27 does not cover the subject parcels of land pursuant to the June 5, 1973 Order of the DAR Secretary reclassifying the lands and declaring the same as suited for residential, commercial, industrial or other urban purposes. Furthermore, the Housing and Land Use Regulatory Board (HLURB) reclassified the lands as early as October 14, 1978.

On October 15, 2004, the CA rendered the assailed Decision,[19] the *fallo* of which reads:

> **WHEREFORE**, the instant petition is hereby **GRANTED**. Accordingly, the assailed decision of the Office of the President is hereby **REVERSED** and **SET ASIDE**. A new decision is hereby rendered dismissing the Petition for Coverage under P.D. No. 27 filed by respondents [now herein petitioner].
>
> **SO ORDERED**.[20]

Petitioner filed a motion for reconsideration. On January 19, 2005, the CA rendered the assailed Resolution[21] denying the motion for reconsideration.

Hence, the instant petition.

The sole issue in this petition is whether Lot Nos. 3257 and 3415 are covered by P.D. No. 27.

Petitioner avers that the final and executory decision of this Court in G.R. No. 127668 affirming that he is a tenant of the landholding in question entitles him to avail of the right granted under PD 27. In other words, because of the finality of the decision declaring him a tenant of the landholding in question, in effect, the subject lots are considered as agricultural lands and are thus covered by P.D. No. 27. Parenthetically, we take judicial notice of the decision of the Court in G.R. No. 127668, in which the tenancy relationship between petitioner and respondents was upheld. That decision is already final and executory.

Respondents, for their part, claim that the lands were already declared suited for residential, commercial, industrial or other urban purposes in accordance with the provisions of Republic Act (R.A.) No. 3844 as early as 1973. Hence, they are no longer subject to P.D. No. 27.

We resolve to deny the petition.

Section 3, Article XII[22] of the Constitution mandates that alienable lands of the

public domain shall be limited to agricultural lands.

The classification of lands of the public domain is of two types, *i.e.*, primary classification and secondary classification. The primary classification comprises agricultural, forest or timber, mineral lands, and national parks. These are lands specifically mentioned in Section 3, Article XII of the Constitution. The same provision of the Constitution, however, also states that agricultural lands of the public domain may further be classified by law according to the uses to which they may be devoted. This further classification of agricultural lands is referred to as secondary classification.[23]

Under existing laws, Congress has granted authority to a number of government agencies to effect the secondary classification of agricultural lands to residential, commercial or industrial or other urban uses.

Thus, Section 65 of R.A. No. 6657 or the Comprehensive Agrarian Reform Law (CARL) of 1988, which took effect on June 15, 1988, explicitly provides:

> Section 65. *Conversion of Lands.*—After the lapse of five (5) years from its award, when the land ceases to be economically feasible and sound for agricultural purposes, or the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes, the DAR, upon application of the beneficiary or the landowner, with due notice to the affected parties, and subject to existing laws, may authorize the reclassification or conversion of the land and its disposition: Provided, That the beneficiary shall have fully paid his obligation.

On the other hand, Section 20 of R.A. No. 7160 otherwise known as the Local Government Code of 1991[24] states:

> SECTION 20. *Reclassification of Lands.* —
>
> (a) A city or municipality may, through an ordinance passed by the *sanggunian* after conducting public hearings for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture or (2) where the land shall have substantially greater economic value for residential, commercial, or industrial purposes, as determined by the *sanggunian* concerned: *Provided,* That such reclassification shall be limited to the following percentage of the total agricultural land area at the time of the passage of the ordinance:
>
> (1) For highly urbanized and independent component cities, fifteen percent (15%);
>
> (2) For component cities and first to the third class municipalities, ten percent (10%); and

(3) For fourth to sixth class municipalities, five percent (5%): *Provided, further,* That agricultural lands distributed to agrarian reform beneficiaries pursuant to Republic Act Numbered Sixty-six hundred fifty-seven (R.A. No. 6657), otherwise known as "The Comprehensive Agrarian Reform Law", shall not be affected by the said reclassification and the conversion of such lands into other purposes shall be governed by Section 65 of said Act.

(b) The President may, when public interest so requires and upon recommendation of the National Economic and Development Authority, authorize a city or municipality to reclassify lands in excess of the limits set in the next preceding paragraph.

(c) The local government units shall, in conformity with existing laws, continue to prepare their respective comprehensive land use plans enacted through zoning ordinances which shall be the primary and dominant bases for the future use of land resources: *Provided,* That the requirements for food production, human settlements, and industrial expansion shall be taken into consideration in the preparation of such plans.

(d) Where the approval by a national agency is required for reclassification, such approval shall not be unreasonably withheld. Failure to act on a proper and complete application for reclassification within three (3) months from receipt of the same shall be deemed as approval thereof.

(e) Nothing in this Section shall be construed as repealing, amending, or modifying in any manner the provisions of R.A. No. 6657.

But even long before these two trail-blazing legislative enactments, there was already R.A. No. 3844 or the Agricultural Land Reform Code, which was approved on August 8, 1963, Section 36 of which reads:

SECTION 36. *Possession of Landholding; Exceptions.*—Notwithstanding any agreement as to the period or future surrender, of the land, agricultural lessee shall continue in the enjoyment and possession of his landholding except when his dispossession has been authorized by the Court in a judgment that is final and executory if after due hearing it is shown that:

(1) The agricultural lessor-owner or a member of his immediate family will personally cultivate the landholding or will convert the landholding, if suitably located, into residential, factory, hospital or school site or other useful non-agricultural purposes: *Provided,* That the agricultural lessee shall be entitled to disturbance compensation equivalent to five years rental on his landholding in addition to his rights under Sections twenty-five and thirty-four, except when the land owned and leased by the