

## FIRST DIVISION

[ G.R. No. 155640, May 07, 2008 ]

**EUGENIA CASTELLANO and ERLAINE CASTELLANO, Petitioners,  
vs. SPS. FLORENTINO FRANCISCO and ESTELITA MATA  
FRANCISCO, Respondents.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a petition for review<sup>[1]</sup> seeking to reverse the 11 June 2002 Decision<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 63703 as well as the 15 October 2002 Resolution<sup>[3]</sup> denying the motion for reconsideration. The Court of Appeals in its assailed decision set aside the 12 January 2001 Decision<sup>[4]</sup> of the Department of Agrarian Reform Adjudication Board (DARAB) which affirmed the 30 August 1999 Decision<sup>[5]</sup> of the Regional Adjudicator. The Court of Appeals declared petitioner Erlaine Castellano's (Erlaine) emancipation patent void and ordered the return of possession of the subject land to respondent spouses Florentino and Estelita Francisco (spouses Francisco) upon payment of the loan.

#### The Facts

Since 1955, spouses Francisco had been in possession of about 23,032 square meters of land at Barangay Malayantoc, Sto. Domingo, Nueva Ecija. In 1976, pursuant to Presidential Decree No. 27<sup>[6]</sup> (PD No. 27), respondent Florentino Francisco (Florentino) was issued Certificate of Land Transfer No. 03019169.

Spouses Francisco alleged that in 1989, due to extreme poverty, they borrowed P50,000 from petitioner Eugenia Castellano (Eugenia) and, in return, Eugenia would cultivate and possess the property until full payment of the loan. Spouses Francisco promised to pay within three years or until 1992. Their agreement was not reduced into writing.

According to spouses Francisco, in the latter part of 1992, they offered to pay the loan but Eugenia refused to accept payment. Spouses Francisco later learned that Eugenia was able to secure Emancipation Patent No. 489877 and Transfer Certificate of Title No. EP-71729 in the name of Erlaine, Eugenia's son.

On 17 December 1997, spouses Francisco filed a petition for cancellation of Erlaine's emancipation patent before the DARAB. Spouses Francisco claimed that ownership of the lot was transferred in Erlaine's name without their knowledge and consent. Spouses Francisco asserted that all the documents necessary for the valid transfer of rights were fabricated and falsified.<sup>[7]</sup>

In their answer, the Castellanos stated that spouses Francisco later informed them that they would no longer redeem the land. A transfer action was later initiated by the Department of Agrarian Reform (DAR) Team Office and, on 15 October 1992, the Regional Director of the DAR, Region III, issued an order approving the transfer action in favor of Erlaine. The Castellanos denied that there was fraud and maintained that the standard procedure for a transfer action was followed.

### **The Decision of the Regional Adjudicator**

On 30 August 1999, Regional Adjudicator Fe Arche Manalang (Regional Adjudicator) ruled in favor of the Castellanos, the dispositive portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Finding and declaring the Petitioners [spouses Francisco] as having sold and abandoned their tenancy/possessory rights over the subject landholding more particularly described in paragraph 4 of the Petition;
2. Directing the cancellation of CLT No. 0301916 issued in the name of Petitioner Florentino M. Francisco covering the subject property;
3. Directing the forfeiture in favor of the Government of all amortization payments so far made by the said Petitioner with the Land Bank of the Philippines;
4. Permanently disqualifying the same Petitioner as an Agrarian Reform Beneficiary under the Government's Comprehensive Agrarian Reform Program; [and]
5. Dismissing all other claims for want of evidence or lack of basis.

NO COSTS.<sup>[8]</sup>

The Regional Adjudicator declared that while Florentino was the original tenant-beneficiary and a holder of a certificate of land transfer, spouses Francisco committed a breach of obligation when they sold their tenancy rights to the Castellanos. The Regional Adjudicator ruled that spouses Francisco abandoned the land when they went to work abroad and executed a "waiver of rights." The Regional Adjudicator stated that neglect or abandonment of the land by the beneficiary for two years is a ground for the forfeiture of the awarded land and cancellation of the certificate of land transfer.

The Regional Adjudicator also ruled that there were no irregularities in the transfer proceedings leading to the issuance of Erlaine's emancipation patent. The Regional Adjudicator declared that the waiver of rights executed by Florentino and his heirs, duly acknowledged before a notary public, enjoyed the presumption of regularity and validity. No evidence was presented to contradict the same. The mistake in the status of Florentino describing him as a widower was a mere oversight which Estelita Francisco later on ratified.

Spouses Francisco appealed the decision to the DARAB.

### **The Decision of the DARAB**

On 12 January 2001, the DARAB dismissed the appeal for lack of merit and affirmed the Regional Adjudicator's 30 August 1999 Decision.

The DARAB declared that Florentino's certificate of land title did not vest in him absolute ownership over the land because transfer of ownership was subject to certain conditions. The DARAB ruled that spouses Francisco surrendered their possessory right over the land in exchange for P50,000 and physically abandoned the land when they worked abroad. The DARAB held that this was sufficient ground for forfeiture of the awarded land and cancellation of the certificate of land transfer.

On the other hand, the DARAB stated that it is the issuance of the emancipation patent in favor of the tenant beneficiary that vests him with absolute ownership of the land. The DARAB ruled that, with the issuance of Erlaine's emancipation patent, Erlaine had a superior right over spouses Francisco, who were mere holders of a certificate of land transfer. The DARAB also stated that the issuance of Erlaine's emancipation patent enjoyed the presumption of regularity and validity that is not overcome by the filing of an information for falsification of public document.

Spouses Francisco appealed to the Court of Appeals.

### **The Decision of the Court of Appeals**

In its 11 June 2002 Decision, the Court of Appeals reversed the 12 January 2001 DARAB Decision. The Court of Appeals ruled that Erlaine's emancipation patent should be canceled because it was issued in violation of PD No. 27. Under PD No. 27, spouses Francisco could not make any valid form of transfer except to the government or, by hereditary succession, to their heirs. Since the basis for the transfer action and the issuance of Erlaine's emancipation patent was spouses Francisco's alienation of their possessory right in favor of Erlaine, the transaction is void.

The Court of Appeals also ruled that spouses Francisco did not abandon the property. The Court of Appeals said that spouses Francisco only surrendered possession of the property to the Castellanos during the period of the loan, on the condition that upon extinguishment of the obligation, possession shall revert back to spouses Francisco.

### **The Issues**

The Castellanos raise the following issues:

1. Whether spouses Francisco abandoned their rights over the land; and
2. Whether Erlaine's emancipation patent is valid.

### **The Ruling of the Court**

The petition is partly meritorious.

***Spouses Francisco did not abandon the land***

We agree with the finding of the Court of Appeals that spouses Francisco did not abandon the land. The Court of Appeals stated that abandonment<sup>[9]</sup> requires (1) a clear and absolute intention to renounce a right or a claim or to abandon a right or property; and (2) an external act by which that intention is expressed or carried into effect. The intention to abandon implies a departure, with the avowed intent of never returning, resuming or claiming the right and the interest that have been abandoned.<sup>[10]</sup>

In this case, there was no showing that spouses Francisco had a clear, absolute or irrevocable intent to abandon the land. Spouses Francisco's surrender of possession did not amount to abandonment because there was an obligation on the part of Eugenia to return possession of the land to spouses Francisco upon full payment of the loan.<sup>[11]</sup>

***Erlaine's emancipation patent is valid***

The Court of Appeals ruled that Erlaine's emancipation patent was void and should be canceled because spouses Francisco could not validly transfer ownership of the land to Erlaine. The Court of Appeals ruled that spouses Francisco's transfer of the rights or possession to the Castellanos violated PD No. 27 and is therefore void.

Indeed, the sale or transfer of rights over a property covered by a certificate of land transfer is void except when the alienation is made in favor of the government or through hereditary succession.<sup>[12]</sup> In this case, however, the Court of Appeals failed to consider that the basis for the issuance of Erlaine's emancipation patent was Florentino's voluntary surrender of the land to the Samahang Nayon, which qualifies as surrender or transfer to the government.

In *Corpus v. Grospe*,<sup>[13]</sup> the Court said:

To repeat, the land was surrendered to the government, not transferred to another private person. It was the government, through the DAR, which awarded the landholding to the private respondents who were declared as qualified beneficiaries under the agrarian laws. Voluntary surrender, as a mode of extinguishment of tenancy relations, does not require court approval as long as it is convincingly and sufficiently proved by competent evidence.

**Petitioner's voluntary surrender to the *Samahang Nayon* qualifies as a surrender or transfer to the government because such action forms part of the mechanism for the disposition and the reallocation of farmholdings to tenant-farmers who refuse to become beneficiaries of PD 27.** Under Memorandum Circular No. 8-80 of the then Ministry of Agrarian Reform, the *Samahan* shall, upon notice from the agrarian reform team leader, recommend other tenant-farmers