

THIRD DIVISION

[G.R. NO. 169277, February 09, 2007]

**DEPARTMENT OF AGRARIAN REFORM, ^[1] REPRESENTED BY OIC
-SECRETARY NASSER C. PANGANDAMAN, PETITIONER, VS.
VICENTE K. UY, RESPONDENT.**

D E C I S I O N

CALLEJO, SR., J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court of the Amended Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 70541 and the Resolution^[3] of the appellate court denying the motion for reconsideration thereof. The CA reversed and set aside the Decision^[4] of the Office of the President (OP) which had affirmed the Order^[5] of the Department of Agrarian Reform (DAR) exempting only a portion (219.50 hectares) of respondent Vicente K. Uy's 349.9996-ha landholding from the coverage of the Comprehensive Agrarian Reform Program (CARP).

On December 4, 1990, this Court promulgated its decision in *Luz Farms v. Secretary of the Department of Agrarian Reform*^[6] where it declared unconstitutional Sections 3(b), 11, 13 and 32 of Republic Act (R.A.) No. 6657.^[7] The nullified provisions pertain to the inclusion of land used in raising livestock, poultry, and swine in the coverage of the law. The Court likewise nullified the Implementing Rules and Guidelines promulgated in accordance therewith.^[8]

On December 27, 1993, the DAR issued Administrative Order (A.O.) No. 9, Series of 1993^[9] primarily to curb the pernicious practice of landowners who convert their lands from agricultural to livestock and poultry in order to circumvent the law. The prefatory statement reads:

x x x, the Supreme Court held that lands devoted to the raising of livestock, poultry and swine are excluded from the coverage of R.A. No. 6657. Following the said decision, numerous reports have been received that some landowners had taken steps to convert their agricultural lands to livestock, poultry and swine raising.

In order to prevent circumvention of the Comprehensive Agrarian Reform Program and to protect the rights of the [a]grarian reform beneficiaries, specifically against their possible unlawful ejectment due to the unauthorized change or conversion or fraudulent declaration of areas actually, directly, and exclusively used for livestock, poultry and swine raising purposes, the following rules and regulations are hereby prescribed for the guidance of all concerned.^[10]

The DAR also declared that as of June 15, 1988, the date R.A. No. 6657 took effect, the following rules shall apply in determining the "areas qualified for exclusion":

- A. Private Agricultural lands or portions thereof exclusively, directly and actually used for livestock, poultry and swine *raising as of 15 June 1998 shall be excluded from the coverage of CARP.*
- B. In determining the areas qualified for exclusion under this Administrative Order, the following ratios of land, livestock, poultry and swine raising shall be adopted:

1.0 Grazing

1.1 Cattle, Carabao ^[11] and Horse Raising

- cattle, carabao and horse (regardless of age) - the maximum ratio is one (1) head to one (1) hectare

x x x x

2.0 Infrastructure

- 2.1 Cattle, Horses and Carabao Raising - a ratio of 21 heads for every 1.7815 hectares of infrastructure x x x. ^[12]

Dr. Vicente K. Uy, Wellington K. Ong, Jaime Chua, and Daniel Sy, among others, are owners of a 349.9996-ha parcel of land located in *Barangay* Camaflora, Barrio of San Andres, Municipality of San Narciso, Province of Quezon. The property is covered by Transfer Certificate of Title (TCT) No. 160988.

Sometime in 1993, some 44 farmers who occupied portions of the property filed petitions in the DAR, seeking to be declared as owners- beneficiaries. On December 20, 1994, the DAR issued a Notice of Coverage under the CARP over the property. For his part, respondent, in behalf of the co-owners, filed an Application for Exclusion^[13] in the form of a letter dated May 10, 1995, through Provincial Agrarian Reform Officer (PARO) Durante L. Ubeda. To substantiate his request to exclude their landholding from CARP coverage under the *Luz Farms* ruling, respondent declared that their property had been exclusively used for livestock-raising for several years prior to June 15, 1988. According to the applicants, they had 400 heads of cattle, 5 horses, and 25 carabaos in the landholding and -

Our private landholding has been devoted and actually used for cattle and/or livestock raising, together with raising of carabaos, and horses continuously from the time it was owned by our predecessors-in-interest, Emitterio Florido, and even when we acquired title over the property in 1979, we continually devoted and actually used the said landholding for cattle raising from 1979 up to the present.^[14]

On May 10, 1995, the Provincial Task Force on Exclusion led by Municipal Agrarian Reform Officer (MARO) Belen T. Babalcon conducted an ocular inspection of the property and an actual "headcount" was conducted. The following were present to witness the inspection: the Mayor of San Andres, the *Barangay* Agrarian Reform Committee Chairman, Legal Officer III James Carigo, and representatives of the

applicants, farmers-beneficiaries, the Provincial Agrarian Reform Office, and the Philippine National Police. The findings of the Task Force are contained in the Investigation Report:

Registered Owner/s: (If deceased, indicate name of heirs)

OWNER

1. Dr. Vicente K. Uy
2. Wellington K. Ong, mrd. to So Ngo Grace Ong
3. Jaime Chua, mrd. to Letty Ong Chua
4. Daniel Sy, mrd. to Carolyn T. Ngo
5. Nancy Ong Uy
6. Emily Ong Uy
7. Lucy Ong
8. Wilson Ong
9. John Ong Uy

E. Actual Land Use	No. of Animal heads/birds	Actual Area (has.) used for grazing	Approximate Area used for infrastructure	Topography
1. Livestock				
1.1 cattle	401)	346.00 hectares	3.00 more or less	Flat to undulating
1.2 horse	20)	more or less		
1.3 carabao	8)			
2. Goat	allegedly owned by			
Sheep	FBs and overseer			
3. Swine	none			
4. Poultry	none			
4.1 layers				
4.2 broilers				
F. Other Land Uses				
Agriculture				
Crops	No. of Has.	No. of Tenants	No. of FWs & employees	
Planted				
1. Coconut and auxillary crops	346.00 more or less and 44 presently utilized for pasture and grazing of livestock.	more than	29	

Others (specify)

20 hectares more or less are sporadically planted to coconut with "aroma shrubs" also utilized for pasture at sitio Ipil.

G. Improvements and Infrastructures. Describe the kind of improvements and infrastructures whether constructed with strong or light materials and indicate the date constructed.

2 corral made of coco lumber. The old one have constructed in 1980 and the other one constructed sometime on February 1995. Barb wire and fences on the perimeter of the area, wooden primary and secondary gate, feed storage, embankments. Cayab and potot creek are utilized for drinking purposes of the livestock.

H. Finishing.

The landholding are entirely planted to bearing coconut trees *"tenanted by more or less 44 FBs with sharing arrangement of 60:40 in favor of the landowner. The tenanted coconut land are presently used as pasture and grazing of the livestock."* Landowner alleged that they are engaged in livestock raising prior to June 15, 1988. FBs are now petitioning for the acquisition and distribution of their occupied area under CARP coverage.

[15]

The Task Force made the following declaration:

I. Comments/Remarks/Recommendations:

The density required on commercial farming as far as the number of livestock is concerned have been met; however, the necessary infrastructure and facilities like paddocks, dike, water trough and others were not present much more per information revealed by farmers in the area majority of the cattles were only brought in the early part of this year. *Therefore, it is recommended that the areas actually cultivated and occupied by the tenants be covered by CARP and only areas not affected be excluded from CARP coverage.*[16]

Thus, on the basis of the aforesaid findings, MARO Belen Babalcon made a Final Report, declaring that 346.000 ha, more or less, is devoted to coconut and livestock farming; the registered owner is Dr. Vicente K. Uy; 346 ha is used for grazing and 3 ha for infrastructure. She declared that while a total of 429 livestock heads (401 cows, 20 horses, 8 carabaos) are being raised in the property, *"the total area for exclusion is undetermined because there are portions occupied by tenants which should not be excluded from CARP coverage."*[17]

Meanwhile, PARO Durante L. Ubeda submitted a separate Report^[18] dated July 4, 1995 where he declared:

- 1) THAT the total number of Certificate[s] of Ownership is 434 which is more than the actual headcount of 401;
- 2) THAT the number of cattle 7 years old and above totaled 134 heads with 13 males and 121 females as of date of certification;
- 3) THAT 300 cattles were of ages 6 years old and below with 76 males and 234 females, [also as of the date of certification.]
[19]

Ubeda's basis for exclusion is the Certificate of Ownership of Large Cattle issued by the Municipal Treasurer of San Andres on May 12-29, 1995, submitted by the landowner, which, according to Ubeda is "more conclusive" (although issued fairly recently). *He recommended the exclusion from CARP coverage a total of 219.50 has: 134 has. for cattle-grazing, 28 has. for horse and carabao grazing, 12.5 has. for infrastructure and 45 has. for retention of nine landowners.*

The applicants, through Uy, wrote a letter^[20] to DAR Region IV Director Percival C. Dalugdug dated July 18, 1995, requesting for a reinvestigation of the Report of PARO Ubeda. This request was reiterated in an August 11, 1995 letter^[21] where the applicants requested, for the first time, the exclusion of another parcel of land - 22.2639 ha and covered by TCT No. T-11948 - which is contiguous to the 349.9996-ha lot covered by their earlier application.

On August 14, 1995, the Regional Director issued an Order affirming the findings and recommendation of PARO Ubeda. Respondent and his co-owners appealed the order to the DAR Secretary on August 28, 1995. They argued that the properties have been devoted to livestock-raising even prior to 1977. Thus, the landholdings should be excluded from CARP coverage.^[22] They further argued that for purposes of determining the area for exclusion under A.O. No. 9, the entire number of livestock should be credited in applying the ratio of one head to one hectare. Considering that the landholdings totaled only 370 ha and there are 429 heads of livestock, they have more than complied with A.O. No. 9, Series of 1993.^[23]

On March 15, 1996, the DAR issued an Order suspending the processing and issuance of Certificates of Land Ownership Awards to the farmers-beneficiaries of the landholding covered by TCT No. 160988 pending the resolution of the appeal.
[24]

On October 7, 1996, the DAR issued an Order^[25] partially granting the application for exclusion. It held that, in accordance with the *Luz Farms* ruling and A.O. No. 9, private agricultural lands are considered excluded from the CARP if already devoted to livestock, poultry, and swine-raising as of June 15, 1988. According to the DAR, this means that the livestock must have been in the area at the time the law took effect. Since the Certificates of Ownership of Large Cattle were issued only on May 12 to 29, 1995, only those livestock which are seven years of age or more can be presumed to be within the area as of June 15, 1988. Consequently, following the animal to land ratio provided in A.O. No. 9 for 134 cattle and 28 horses and carabaos, only 162 ha should be exempted from CARP coverage.

The DAR also ruled that additional exemptions include 12.50 ha for infrastructure