

## FIRST DIVISION

[ G.R. No. 148277, June 29, 2004 ]

**NICANOR MARTILLANO, PETITIONER, VS. THE HONORABLE  
COURT OF APPEALS AND WILSON PO CHAM, RESPONDENTS.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

This is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure assailing the Decision of the Court of Appeals in CA-G.R. SP No. 49929<sup>[1]</sup> dated September 19, 2000, and its Resolution dated March 9, 2001, which reversed and set aside the decision of the Department of Agrarian Reform Adjudication Board (DARAB)<sup>[2]</sup> dated July 31, 1998; in effect, reinstating the Decision<sup>[3]</sup> dated July 10, 1996 of the Provincial Adjudicator of Malolos, Bulacan, which declared private respondent Wilson Po Cham to have the right to retain the 1.3785 hectare property pursuant to Section 6 of Republic Act No. 6657.

The antecedent facts are as follows:

On April 24, 1989, Abelardo Valenzuela, Jr. instituted a complaint, docketed as DARAB Case 062-Bul '89, before the DAR Adjudication Board for the cancellation of the Certificate of Land Transfer (CLT) No. 0-042751 and/or Emancipation Patent Nos. A-308399 issued in favor of Nicanor Martillano. In his complaint, Valenzuela alleged that he is the absolute owner in fee simple of two parcels of land with an aggregate area of more or less 14,135 square meters located at Pandayan (formerly Ibayo), Meycauyan, Bulacan. He averred that he has never instituted Martillano as tenant-farmer and that the issuance of the said CLT and/or Emancipation Patents in his favor was erroneous and improper.

In answer to the complaint, Martillano claimed that he is a tenant of the Roman Catholic Church since 1972. He does not recognize the complainant as the true and lawful landowner of the land he was tilling. He further claimed that he acquired his tenurial status from his mother, Maria Martillano, and submitted in evidence a leasehold contract executed by and between the Roman Catholic Church of Meycauyan, Bulacan and Maria Martillano.

On April 4, 1990, Valenzuela sold 19 parcels of land with an aggregate land area of more or less 1.3785 hectares to private respondent Po Cham.<sup>[4]</sup>

On April 19, 1990, the Regional Adjudication Board of the Department of Agrarian Reform, Region III, rendered a decision in DARAB Case No. 062-Bul '89 finding that Martillano was not a bona fide tenant and declaring that CLT No. 0-042751 and Emancipation Patent No. A-308399 are null and void. The dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Declaring respondent Nicanor Martillano as not a bona fide tenant of the land in dispute, consisting of two (2) parcels known as Lot No. 18-C-1 with an area of 7,301 square meters and Lot No. 18-C-2 with an area of 6,834 square meters, situated at Pandayan (formerly Ibayo), Meycauyan, Bulacan, owned by complainant Abelardo Valenzuela, Jr.;
2. Declaring null and void CLT No. 0-042751 and Emancipation Patent No. A-308399 generated in favor of respondent Nicanor F. Martillano for having been erroneously and improperly issued, and ordering their immediate recall and/or cancellation;
3. Ordering respondent Nicanor F. Martillano and all other persons claiming authority under him to immediately vacate subject landholding and surrender possession thereof to complainant Abelardo D. Valenzuela.

On appeal, the DARAB reversed the decision of the Regional Adjudication Board and declared Martillano as a bona fide tenant for the disputed land, and Certificate of Land Transfer No. 0-042751 and Emancipation Patent Nos. 308399 and 308400-(H) as valid. The decretal portion of the DARAB decision reads:

WHEREFORE, the Decision of the DAR Regional Adjudication Board dated April 19, 1990 is hereby REVERSED, and a new one entered:

1. Declaring the Appellant a bona fide tenant-tiller of the land in dispute;
2. Declaring and maintaining as valid the Certificate of Land Transfer numbered No. 0-042751 and the Emancipation patent Nos. 308399 and 308400-(H) issued to appellant;
3. Directing the DAR Provincial Agrarian Reform Officer (PARO) of Baliuag, Bulacan to register the said Emancipation Patents with the Register of Deed; for the Province of Bulacan and for the latter to enter the same in the Book of Registry; and
4. Denying the Motion for Reconsideration dated February 26, 1991 filed by Appellee for being moot and academic.

From this decision, no appeal was interposed by Valenzuela.

Meanwhile, as early as May 13, 1994, Valenzuela filed an application with the DAR, Region III for the retention of a portion of his landholdings with a total land area of 10.12625 hectares pursuant to Section 6 of RA 6657.<sup>[5]</sup>

In an Order dated December 20, 1996, the DAR, Region III, thru then Regional Director Eugenio B. Bernardo, granted to Valenzuela 4.4597 hectares under TCT Nos. T-12773 (M) and T-12.774 (M) (formerly OCT No. 0-6061) as his retention area. Thus:

WHEREFORE, premises considered, an ORDER is hereby issued, as follows:

1. GRANTING Valenzuela an area of 4.4597 hectares under TCT Nos. T-12773 (M) and T-12.774 (M) (formerly OCT No. 0-6061) situated in Meycauyan, Bulacan, as his retention area;
2. DIRECTING Abelardo Valenzuela, Jr., to cause the segregation of his retained area at his own expense and to submit a copy of the segregation plan to this Office within thirty (30) days from the approval thereof; and,
3. MAINTAINING the legality and validity of the Emancipation patents of Apolinario Antonio, Severo San Felipe, Guillermo Pangilinan and Nicanor Martillano covering their respective tillages.

On March 11, 1997, William Po Cham filed a motion for intervention, claiming that he was the successor-in-interest of Abelardo Valenzuela, Jr. over a portion of 1.3785 hectares which is the subject of a Deed of Sale dated April 4, 1990.

Valenzuela's motion for reconsideration from the Order of DAR, Region III was treated as an appeal by the Department of Agrarian Reform, which declared the retained area of Valenzuela to be five hectares including the portion subject of the Deed of Absolute Sale to private respondent Po Cham consisting of 1.3785 hectares.

Earlier, on June 4, 1993, Po Cham filed a petition<sup>[6]</sup> entitled "Wilson Po Cham v. the MARO and Register of Deeds of Meycauyan, and PARO, all of the Province of Bulacan" before the DARAB, Region III, docketed as DARAB Case No. 512-Bul '94, for the cancellation of Emancipation Patents Nos. 308399 and 308400 in the name of Martillano. Significantly, Po Cham did not implead Nelson Martillano as one of the party-defendants in the case.<sup>[7]</sup>

On July 10, 1996, DARAB, Region III rendered its decision, the dispositive portion of which reads:<sup>[8]</sup>

WHEREFORE, premises considered, judgment is hereby rendered:

1. Declaring Petitioner (Wilson Po Cham) has the right to retain the 1.3785 hectare of property covered by the above-mentioned titles pursuant to Section 6, R.A. No. 6657;
2. Directing respondents PARO of Bulacan and Register of Deeds of Meycauyan, both of Bulacan to recall and cancel EP No. 308399/TCT No. EP-062 (M) and EP No. 308400 (H)/TCT No. EP-061 (M) and;
3. Directing tenant Nicanor F. Martillano be maintained in peaceful possession of the subject landholding that he is actually cultivating.

Dissatisfied, Po Cham filed an appeal before the DARAB which rendered a decision on July 31, 1998, the decretal portion of which reads:<sup>[9]</sup>

WHEREFORE, finding reversible errors committed by the Honorable Adjudicator a quo the decision appealed from is hereby REVERSED and a

new decision entered.

1. Declaring Nicanor Martillano as the lawful farmer-beneficiary and maintaining the Emancipation Patents numbered 30399 and 308400 issued in his name as valid; and
2. Maintaining Nicanor F. Martillano in peaceful possession and cultivation of the subject landholding; and
3. Declaring the conveyance of the landholding between Abelardo Valenzuela, Jr. and Plaintiff-Appellee Wilson Po Cham as null and void for being contrary to law and public policy.

Unfazed by the adverse ruling, private respondent Po Cham filed a petition for review before the Court of Appeals assailing the decision of DARAB. On September 19, 2000, the Court of Appeals rendered the challenged decision, which granted the petition and reversed and set aside the July 31, 1998 decision of the DARAB.<sup>[10]</sup>

On March 9, 2001, the appellate court denied for lack of merit the motion for reconsideration filed by petitioner Martillano.

Hence the instant petition based on the following grounds:

## I

THE RESPONDENT COURT ACTED WITHOUT JURISDICTION OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN RENDERING THE QUESTIONED DECISION OF SEPTEMBER 19, 2000 REVERSING AND SETTING ASIDE THE DARAB DECISION OF JULY 31, 1998 AND REINSTATING THE PROVINCIAL ADUDICATOR'S DECISION OF JULY 10, 1996.

## II

THE RESPONDENT COURT ACTED WITHOUT JURISDICTION OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN ISSUING THE ASSAILED RESOLUTION OF MARCH 9, 2001 DENYING MARTILLANO'S MOTION FOR RECONSIDERATION OF THE AFORESAID QUESTIONED DECISION.<sup>[11]</sup>

In the instant case, petitioner is appealing a final decision of the Court of Appeals by resorting to Rule 65, when his remedy should be based on Rule 45. This case should have been dismissed outright for failure by the petitioner to adopt the proper remedy. While ordinarily, certiorari is unavailing where the appeal period has lapsed, there are exceptions. Among them are (a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; (d) or when the questioned order amounts to an oppressive exercise of judicial authority. Hence, in the interest of substantial justice, we deem it wise to overlook the procedural technicalities if only to demonstrate that despite the procedural infirmity, the instant petition is impressed with merit.<sup>[12]</sup>