

SECOND DIVISION

[G.R. No. 130196, February 26, 2001]

**LUCIA MAPA VDA. DE DELA CRUZ, LEODIVINA DELA CRUZ,
WILMA DELA CRUZ, DARLITO DELA CRUZ, JUANITA DELA CRUZ,
RICARDO DELA CRUZ, ARSENIO DELA CRUZ, JUAN DELA CRUZ,
AND PACITA DELA CRUZ, PETITIONERS, VS. ADJUTO ABILLE,
RESPONDENT.**

D E C I S I O N

DE LEON, JR., J.:

Before us is an appeal of the Decision^[1] dated December 5, 1996 of the Court of Appeals^[2] dismissing petitioners' appeal from the judgment of the Secretary of the Department of Agrarian Reform (DAR) denying their petition for issuance of an emancipation patent.

The facts are as follows:

Herminio Abille, now deceased, had a total landholding of 13.0561 hectares, located in Infanta, Pangasinan, comprising of 9.2903 hectares of riceland; 2.0000 hectares of cogonland; 1.7658 hectares of coconut land and .4660 hectare of residential land.^[3]

Since 1968, Balbino dela Cruz was an agricultural tenant in the riceland tilling an area of 2.84 hectares.^[4] He died on June 14, 1981. After his death, Balbino dela Cruz was, nevertheless, issued a Certificate of Land Transfer (CLT) No. 0-064711^[5] dated October 25, 1981 pursuant to Presidential Decree No. 27.^[6] The certificate was entered in the Registration Book of the Registry of Deeds of Pangasinan. Tax Declaration No. 3 in the name of Herminio Abille was cancelled and Tax Declaration No. 1134 was issued in the name of Balbino dela Cruz.^[7]

On April 3, 1987, Herminio Abille filed a petition for exemption under Operation Land Transfer (OLT) of his landholdings alleging, among others, that he was not notified of the coverage of his land under OLT; that he learned of its coverage only on March 25, 1987; that prior to the issuance of the Certificate of Land Transfer No. 0-064711, DAR did not notify him or his representative; that he has been deprived of his constitutional right to due process.^[8]

On April 19, 1989, Regional Director Antonio M. Nuesa of the Bureau of Agrarian Legal Assistance, Region I, San Fernando, La Union, issued an Order, the dispositive portion of which reads:

WHEREFORE, by virtue of the authority vested in me by DAR Memorandum Circular No. 5-87, order is hereby issued:

1. Denying the petition for exemption, instead the right of retention of not more than seven (7) hectares is hereby granted;
2. Directing the petitioner to immediately select the retention area;
3. Canceling the Certificates of Land Transfer issued to the tenants on the retained area;
4. Directing the MARO of Infanta, Pangasinan to prepare Agricultural Leasehold Contracts between the petitioner and the tenants; and
5. Directing the MARO to implement this Order.

SO ORDERED.^[9]

On July 24, 1989,^[10] Herminio Abille selected the seven-hectare retention area, which included the area covered by CLT No. 0-064711 issued to Balbino dela Cruz; hence, said CLT was automatically cancelled.^[11] After the finality and implementation of the said Order dated April 19, 1989, Provincial Agrarian Reform Officer Eugenio B. Bernardo wrote a letter to the Municipal Assessor of Infanta, Pangasinan requesting for the cancellation of Tax Declaration No. 1134 in the name of Balbino dela Cruz and the re-issuance of Tax Declaration No. 3 in favor of Herminio Abille.^[12] On March 4, 1991, the Provincial Assessor of Pangasinan issued a Notice of Cancellation of Assessment, cancelling Tax Declaration No. 1134 in the name of Balbino dela Cruz for the reason that "subject property was decided by the DAR to be retained to Herminio Abille as per supporting documents attached."^[13]

On June 29, 1992, petitioners, who are the compulsory heirs of the late Balbino dela Cruz, filed with the Department of Agrarian Reform a petition for the issuance of emancipation patent. The petition was referred to the Regional Director, Region I, San Fernando, La Union, for appropriate action.^[14]

In his Comment,^[15] respondent Adjuto M. Abille, representing Herminio Abille, prayed for the dismissal of the petition for the issuance of emancipation patent on the ground that DAR Order dated April 19, 1989, ordering the cancellation of the Certificate of Land Transfer of the retained area, had become final and had been implemented by the Provincial Agrarian Officer of Pangasinan; hence, the petition had become moot and academic.

On October 21, 1992, Regional Director Eligio P. Pacis of the Bureau of Agrarian Legal Assistance, Region I, San Fernando, La Union, issued an Order denying the petition for the issuance of an emancipation patent as CLT No. 0-064711 issued in favor of Balbino dela Cruz had already been cancelled by virtue of the Order dated April 19, 1989, which was supported by substantial evidence, and that said Order had long become final. The dispositive portion of the Order dated October 21, 1992 reads:

WHEREFORE, premises considered, by virtue of the authority vested in me by DAR Memo No. 5, Series of 1987, and other implementing Rules and Regulations, an Order is hereby issued:

1. Denying the instant Petition for the issuance of an Emancipation Patent (EP) filed by the Petitioners;
2. Affirming *in toto* the Order dated 19 April 1989, issued by then Director Nuesa;
3. Directing the Provincial Agrarian Reform Officer (PARO) of Pangasinan or his duly authorized representative to execute/implement this Order and Deputizing the Chief of PNP-Infanta to provide the necessary police assistance to the DAR Official concerned in the implementation of this Order.

SO ORDERED.^[16]

Petitioners filed a motion for reconsideration praying that another Order be issued declaring as null and void the Order dated April 19, 1989, which was issued allegedly without giving them a day in court, hence, there was absence of due process of law, considering that Balbino dela Cruz was already deemed owner of the subject property as of October 21, 1972. They sought the reinstatement of CLT No. 0-064711 and the issuance of an emancipation patent in their favor as compulsory heirs of the late Balbino dela Cruz.

The said motion for reconsideration was treated as an appeal and elevated to the Secretary of the Department of Agrarian Reform who rendered a Decision on June 20, 1994, the dispositive portion of which reads:

WHEREFORE, premises considered, Order is hereby issued dismissing the instant motion for lack of merit and the Order dated October 21, 1992 is hereby affirmed. The Regional Director is hereby ordered to prepare Certificates of Agricultural Leasehold (CALs) to the tenants in the retained area as lessees thereat.

SO ORDERED.^[17]

In affirming the Order dated October 21, 1992, the Secretary of Agrarian Reform declared that:

After a careful re-evaluation of the records of the instant case this Office finds merit in the questioned Orders dated April 19, 1989 and October 21, 1992. When a CLT is issued in favor of a farmer-beneficiary the said beneficiary became the owner of only an inchoate right over the subject landholding thus, can still be cancelled administratively for justifiable reason. As stated in the Order dated April 19, 1989, the previous owner Hermino Abille owned an area of 13.0561 hectares, more or less of landholding and of which a portion of 9.2903 hectares is a riceland, an area of 2.0000 hectares is cogonal, 1.7658 hectare is a coconut land and .4660 hectare is a residential land. Of his riceland as provided for by PD No. 27, the said owner is granted the right to retain an area of not exceeding seven (7) hectares and the right to select and segregate the said area. The aforesaid CLT had already been cancelled since the area covered by it was among those retained area selected by the landowner as evidenced by a letter dated October 17, 1989 of PARO Eugenio B. Bernardo and the Notice of Cancellation of Assessment dated March 4,

1991 issued by the provincial Assessor. The landowner of the retained area has the right to choose the area which he wants to retain from his landholding. Section 6 of R.A. 6657 provides that "the right to choose the area to be retained, which shall be compact or contiguous, shall pertain to the landowner."^[18]

Petitioners' motion for reconsideration of the said Decision of the Secretary of DAR having been denied, they filed a petition for review with the Court of Appeals. However, the Court of Appeals dismissed the said petition for review in a Decision promulgated on December 5, 1996.^[19] Their motion for reconsideration was denied by the appellate court in a Resolution dated August 6, 1997.^[20]

Hence, this petition seeking a review of the Decision dated December 5, 1996 of the Court of Appeals.

Petitioners argued that it was incorrect for the Court of Appeals to hold that they were accorded due process when the validity of the cancellation of Certificate of Land Transfer No. 0-064711 was resolved in the Order dated April 19, 1989; and that their petition for issuance of an emancipation patent is a different proceeding from the petition filed by Herminio Abille wherein Regional Director Antonio Nuesa ordered the cancellation of their predecessor's (Balbino dela Cruz) Certificate of Land Transfer; that in the said petition filed by Herminio Abille, they were not notified and given the opportunity to be heard. Petitioners maintained that they were denied due process so that the Order dated April 19, 1989 of Regional Director Nuesa cancelling the Certificate of Land Transfer No. 0-064711 in the name of Balbino dela Cruz is null and void, and cannot be used to deny their petition for the issuance of an emancipation patent.

Citing P.D. No. 27, *Locsin, et al. v. Valenzuela*,^[21] and *Quiban v. Butalid*,^[22] petitioners also assert that they became the owners of the lands they till as of the date of effectivity of P.D. No. 27 on October 21, 1972; that they have religiously paid the annual rent of the property to the late Herminio Abille, that is, continuously after October 21, 1972 until 1991 or for nineteen (19) years; that by virtue of P.D. No. 27 in relation to the second paragraph,^[23] section 2 of Executive Order No. 228, the price of said property had been fully paid thereby entitling them to the issuance of an emancipation patent.

The petition is devoid of merit.

We agree with the Court of Appeals that although the petitioners were not given the opportunity to be heard when Regional Director Antonio Nuesa in his Order dated April 19, 1989 ordered the cancellation of Certificate of Land Transfer No. 0-064711 on the retained area, nevertheless, in their petition for issuance of an emancipation patent, petitioners were given the opportunity to be heard as they raised in issue the validity of the cancellation of the said CLT, which was resolved by DAR Regional Director Eligio P. Pacis in his Order dated October 21, 1992,^[24] and also in their (petitioners') motion for reconsideration,^[25] which was treated as an appeal by the Secretary of Agrarian Reform and resolved in his Order dated June 20, 1994.^[26] The essence of due process is simply **an opportunity to be heard or, as applied to administrative proceedings, an opportunity to seek a reconsideration of**