

FIRST DIVISION

[G. R. No. 131216, July 19, 2001]

OFFICE OF THE PRESIDENT, MALACAÑANG, MANILA, THROUGH SENIOR DEPUTY EXECUTIVE SECRETARY LEONARDO A. QUISUMBING, HONORABLE BENJAMIN T. LEONG, SECRETARY OF THE DEPARTMENT OF AGRARIAN REFORM AND ROMEO B. BELLO, PROVINCIAL AGRARIAN REFORM OFFICER (PARO) CABANATUAN CITY, PETITIONERS, VS. COURT OF APPEALS AND HEIRS OF JOSE T. REYES, NAMELY: JOSE T. REYES, JR., MANUEL T. REYES, FELICIDAD R. GONZALES, LYDIA R. BUENCAMINO, ANITA R. INCIONG, ALICIA R. MACEDA, LUZ R. QUIOGUE, JOSEFINA R. FAJARDO, AND AURORA R. MARIANO, RESPONDENTS.

DECISION

PARDO, J.:

Appeal *via* certiorari from the decision of the Court of Appeals^[1] ruling that the farmland of the heirs of Jose T. Reyes (hereafter, "Reyes") consisting of 2.5 hectares situated at Gapan, Nueva Ecija, which was his share in the original twenty four (24) hectare landholding of his late mother, was not included within the coverage of Operation Land Transfer under R. A. No. 6657.

The facts, as found by the Court of Appeals, are as follows:

"During her lifetime, the late Aurora Tinio-Reyes, mother of the petitioner, Jose T. Reyes (substituted by his heirs upon his death), owned several parcels of land consisting of twenty-four (24) hectares, more or less, situated at Gapan, Nueva Ecija. On 29 June 1977, Aurora Tinio-Reyes died testate. A last will and testament which she executed on 19 December 1971 was admitted to probate on 12 January 1973. An Order granting Letters Testamentary was issued on 24 November 1977. In said will, the testator bequeathed to her nine (9) children several parcels of land consisting of twenty-four (24) hectares, more or less, situated at Gapan, Nueva Ecija.

"On 8 September 1978, a Project of Partition was executed by and among the surviving heirs. In the Project of Partition, a parcel of land covered by T.C.T. No. NT-110703 was assigned to the petitioner. Thus, the distribution of Aurora Tinio-Reyes' land were as follows:

"T.C.T. No. NT-110703 - Jose T. Reyes

"T.C.T. No. NT-110704 - Manuel T. Reyes

"T.C.T. No. NT-110705 - Luz Reyes Quiogue

"T.C.T. No. NT-110706 - Felicidad Reyes-Gonzales

"T.C.T. No. NT-110707 - Lydia Reyes-Buencamino

"T.C.T. No. NT-110708 - Anita Reyes-Inciona

"T.C.T. No. NT-110709 - Alicia Reyes-Maceda

"T.C.T. No. NT-110710 - Josefina Reyes-Fajardo

"T.C.T. No. NT-110711 - Aurora Reyes-Mariano

"Subsequently, the Probate Court issued an order closing the administration of the estate. During the probate proceedings of the testator's will, no one contested or challenged the said will.

"On 28 February 1979, the petitioner's brother, Manuel T. Reyes, was issued T.C.T. No. NT-158798. From the said parcel of land, there were three transfer certificates of title which were issued. Two portions of the subdivided parcel of land, (T.C.T. No. NT-161175 and T.C.T. No. NT-161176), were sold to one Francisco L. Buena, while the other portion covering T.C.T. No. NT-167714 was sold to Apolonio Crisostomo.

"Following his brother's example, the petitioner requested from the Register of Deeds of Cabanatuan City the issuance of a new transfer certificate of title in his name. However, as a pre-requisite to the issuance of a new certificate, a clearance from the Department of Agrarian Reform attesting to the non-inclusion of the land in the Operation Land Transfer was required. In the meantime, petitioner's sister, Josefina Reyes-Fajardo, entered into a tenancy agreement ("KASUNDUAN") with her tenants on September 30, 1988.

"In February 1991, Josefina Fajardo received a letter from the Municipal Agrarian Reform Officer which stated, inter alia, that: "Ayon po sa aming talan, ang lupang palayan na inyong pag-aari ay nasasakupan ng "Operation Land Transfer." It further stated that those who failed to exercise their right of retention as of 25 August 1985, may retain five (5) hectares. On the other hand, in response to the request of the petitioner for clearance or certification, the Provincial Agrarian Reform Office of Cabanatuan City issued his investigation Report and Recommendation to wit:

"In resume therefore, it is respectfully recommended that the landholding of Josefina Reyes-Fajardo in her behalf and also in behalves (sic) of her sisters will remain as not covered by Operation Land Transfer (OLT) in view of the "Kasunduan" dated September 30, 1988, whereby they bind themselves that R. A. 6657 will be the law to be enforced upon them, while the landholding of Jose T. Reyes will remain as under Operation Land Transfer.