378 Phil. 1248

SECOND DIVISION

[G.R. No. 128557, December 29, 1999]

LAND BANK OF THE PHILIPPINES, PETITIONER VS. COURT OF APPEALS AND JOSE PASCUAL, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

The lofty effort of the Government to implement an effective agrarian reform program has resulted in the massive distribution of huge tracks of land to tenant farmers. But it divested many landowners of their property, and although the Constitution assures them of just compensation its determination may involve a tedious litigation in the end. More often, land appraisal becomes a prolonged legal battle among the contending parties - the landowner, the tenant and the Government. At times the confrontation is confounded by the numerous laws on agrarian reform which although intended to ensure the effective implementation of the program have only given rise to needless confusion which we are called upon to resolve, as the case before us.

Private respondent Jose Pascual owned three (3) parcels of land located in Guttaran, Cagayan. Parcel 1 covered by TCT No. 16655 contains an area of 149,852 square meters as surveyed by the DAR but the actual land area transferred is estimated at 102,229 square meters and classified as unirrigated lowland rice; Parcel 2 covered by TCT No. 16654 contains an area of 123,043 square meters as surveyed by the DAR but the actual land area transferred is estimated at 85,381 square meters and classified as cornland; and, Parcel 3 covered by TCT No. 16653 contains an area of 192,590 square meters but the actual land area transferred is estimated at 161,338 square meters and classified as irrigated lowland rice.[1] Pursuant to the Land Reform Program of the Government under PD 27[2] and EO 228,[3] the Department of Agrarian Reform (DAR) placed these lands under its Operation Land Transfer (OLT).[4]

Under EO 228 the value of rice and corn lands is determined thus -

> *Sec. 2. Henceforth, the valuation of rice and corn lands covered by P.D. 27 shall be based on the average gross production determined by the Barangay Committee on Land Production in accordance with Department Memorandum Circular No. 26, series of 1973 and related issuances and regulations of the Department of Agrarian Reform. The average gross production shall be multiplied by two and a half (2.5), the product of which shall be multiplied by Thirty-Five Pesos (P35), the government support price for one cavan of 50 kilos of palay on October 21, 1972, or Thirty-One Pesos (P31), the government support price for one cavan of 50 kilos of corn on October 21, 1972, and the amount arrived at shall be the value of the rice and corn land, as the case may be, for the purpose*

of determining its cost to the farmer and compensation to the landowner (emphasis supplied).

Hence, the formula for computing the Land Value (LV) or Price Per Hectare (PPH) of rice and corn lands is 2.5 x AGP x GSP = LV or PPH.

In compliance with EO 228, the Provincial Agrarian Reform Officer (PARO) of the DAR in an "Accomplished OLT Valuation Form No. 1" dated 2 December 1989 recommended that the "Average Gross Productivity" (AGP) based on "[3] Normal Crop Year" for Parcels 1 and 2 should be 25 cavans per hectare for unirrigated lowland rice and 10 cavans per hectare for corn land.[5]

Meanwhile, the Office of the Secretary of Agrarian Reform (SAR) also conducted its own valuation proceedings apart from the PARO. On 10 October 1990 Secretary Benjamin T. Leong of the DAR using the AGP of 25.66 cavans for unirrigated rice lands[6] issued an order valuing Parcel 1 at P22,952.97[7] and requiring herein petitioner Land Bank of the Philippines (LBP) to pay the amount. On 1 February 1991 petitioner LBP approved the valuation.

In 1991 private respondent Jose Pascual, opposing the recommended AGP of the PARO, filed a petition for the annulment of the recommendation on the productivity and valuation of the land covered by OLT, subject matter hereof, with the Department of Agrarian Reform Adjudication Board (DARAB). Oscar Dimacali, Provincial Agrarian Reform Adjudicator (PARAD) of Cagayan heard the case. Despite due notice however Francisco Baculi, the PARO who issued the assailed recommendation, failed to appear at the trial. Only private respondent Jose Pascual and Atty. Eduard Javier of petitioner LBP were present.[8] Thereafter private respondent was allowed to present evidence *ex-parte.*

At the hearings conducted by the PARAD private respondent presented as evidence another "Accomplished OLT Valuation Form No. 1," for Parcel 3 dated 22 June 1976 to support his claim that the "OLT Valuation Form" issued by PARO Francisco Baculi extremely undervalued the AGP of his lands. In the "1976 OLT Valuation Form" the AGP based on "(3) Normal Crop Year" was 80 cavans per hectare for lowland rice unirrigated, 28 cavans per hectare for corn lands and 100 cavans per hectare for lowland rice irrigated.[9]

Private respondent also presented Tax Declarations for Parcels 1 and 2 stating that the AGP was 80 cavans for unirrigated rice lands and 28 cavans for corn lands.

On 11 June 1992 the PARAD ruled in favor of private respondent nullifying the 2 December 1989 AGP recommended by the PARO.[10] Instead, the PARAD applied the 22 June 1976 AGP and the AGP stated in private respondent's Tax Declarations to determine the correct compensation. The PARAD also used the "Government Support Price" (GSP) of P300 for each cavan of palay and P250 for each cavan of corn.[11] He then ordered petitioner LBP to pay private respondent P613,200.00 for Parcel 1, P148,750.00 for Parcel 2, and P1,200,000.00 for Parcel 3, or a total amount of P1,961,950.00.[12]

After receiving notice of the decision of the PARAD, private respondent accepted the

valuation. However, when the judgment became final and executory, petitioner LBP as the financing arm in the operation of PD 27 and EO 228 refused to pay thus forcing private respondent to apply for a Writ of Execution with the PARAD which the latter issued on 24 December 1992.[13] Still, petitioner LBP declined to comply with the order.

On 29 June 1994 Secretary Ernesto Garilao Jr. of the DAR wrote a letter to petitioner LBP requiring the latter to pay the amount stated in the judgment of the PARAD.[14] Again, petitioner LBP rejected the directive of Secretary Garilao. Petitioner's Executive Vice President, Jesus Diaz, then sent a letter to Secretary Garilao arguing that (a) the valuation of just compensation should be determined by the courts; (b) PARAD could not reverse a previous order of the Secretary of the DAR;[15] and, (c) the valuation of lands under EO 228 falls within the exclusive jurisdiction of the Secretary of the DAR and not of the DARAB.[16]

On 23 January 1995 the Secretary of Agrarian Reform replied to petitioner -

> *We agree with your contention that the matter of valuation of lands covered by P.D. 27 is a matter within the administrative implementation of agrarian reform, hence, cognizable exclusively by the Secretary.*
>
> *However, in this particular case, there is another operative principle which is the finality of decisions of the Adjudication Board. Since the matter has been properly threshed out in the quasi-judicial proceeding and the decision has already become final and executory, we cannot make an exception in this case and allow the non-payment of the valuation unless we are enjoined by a higher authority like the courts.*
>
> *Therefore at the risk of occasional error, we maintain that payment should be made in this case. However we believe situations like this would be lessened tremendously through the issuance of the attached memorandum circular[17] to the Field Offices.[18]*

Despite the letter of Secretary G. Garilao, petitioner LBP remained adamant in its refusal to pay private respondent. It reiterated its stand that the PARAD had no jurisdiction to value lands covered by PD 27.[19]

On 17 June 1995 counsel for private respondent also wrote petitioner LBP demanding payment. On 20 June 1995 petitioner replied -

> *x x x x Although we disagree with the foregoing view that the PARAD decision on the land valuation of a PD 27 landholding has become final for numerous legal reasons, in deference to the DAR Secretary, we informed him that we will pay the amount decided by the PARAD of Cagayan provided the tenant beneficiaries of Mr. Pascual be consulted first and the land transfer claim be redocumented to the effect that said beneficiaries re-execute the Landowner Tenant Production Agreement-Farmers Undertaking to show their willingness to the PARAD valuation and to amortize the same to this bank. This is in consonance with the legal mandate of this bank as the financing arm of PD 27/EO 228 landholdings. In other words, the beneficiaries must agree to the amount*

being financed, otherwise, financing may not be possible pursuant to this bank's legal mandate (emphasis supplied).[20]

Petitioner LBP having consistently refused to comply with its obligation despite the directive of the Secretary of the DAR and the various demand letters of private respondent Jose Pascual, the latter finally filed an action for Mandamus in the Court of Appeals to compel petitioner to pay the valuation determined by the PARAD. On 15 July 1996 the appellate court granted the Writ now being assailed. The appellate court also required petitioner LBP to pay a compounded interest of 6% per annum in compliance with DAR Administrative Order No. 13, series of 1994.[21] On 11 March 1997 petitioner's Motion for Reconsideration was denied;[22] hence, this petition.

Petitioner LBP avers that the Court of Appeals erred in issuing the Writ of Mandamus in favor of private respondent and argues that the appellate court cannot impose a 6% compounded interest on the value of Jose Pascual's land since Administrative Order No. 13 does not apply to his case. Three (3) reasons are given by petitioner why the Court of Appeals cannot issue the writ:

First, it cannot enforce PARAD's valuation since it cannot make such determination for want of jurisdiction hence void. Section 12, par. (b), of PD 946[23] provides that the valuation of lands covered by PD 27 is under the exclusive jurisdiction of the Secretary of Agrarian Reform. Petitioner asserts that Sec. 17 of EO 229[24] and Sec. 50 of RA No. 6657,[25] which granted DAR the exclusive jurisdiction over all agrarian reform matters thereby divesting the Court of Agrarian Relations of such power, did not repeal Sec. 12, par. (b), of PD 946. Petitioner now attempts to reconcile the pertinent laws by saying that only the Secretary of Agrarian Reform can determine the value of rice and corn lands under Operation Land Transfer of PD 27, while on the other hand, all other lands covered by RA 6657 (CARL) shall be valued by the DARAB, hence, the DARAB of the DAR has no jurisdiction to determine the value of the lands covered by OLT under PD 27.

To bolster its contention that Sec. 12, par. (b), of PD 946 was not repealed, petitioner LBP cites Sec. 76 of RA 6657.[26] It argues that since Sec. 76 of RA 6657 only repealed the last two (2) paragraphs of Sec. 12 of PD 946, it is obvious that Congress had no intention of repealing par. (b). Thus, it remains valid and effective. As a matter of fact, even the Secretary of Agrarian Reform agreed that Sec. 12, par. (b), of PD 946 still holds. Based on this assumption, the Secretary of the DAR has opined that the valuation of rice and corn lands is under his exclusive jurisdiction and has directed all DARAB officials to refrain from valuing lands covered by PD 27. [27] Petitioner maintains that the Secretary of the DAR should conduct his own proceedings to determine the value of Parcels 2 and 3 and that his valuation of Parcel 1[28]should be upheld.

We do not agree. In *Machete v. Court of Appeals*[29] this Court discussed the effects on PD 946 of Sec. 17 of EO 229 and Sec. 50 of RA 6657 when it held -

The above quoted provision (Sec. 17) should be deemed to have repealed Sec. 12 (a) and (b) of Presidential Decree No. 946 which invested the then courts of agrarian relations with original exclusive jurisdiction over cases and questions involving rights granted and

obligations imposed by presidential issuances promulgated in relation to the agrarian reform program (emphasis supplied).

Thus, petitioner's contention that Sec. 12, par. (b), of PD 946 is still in effect cannot be sustained. It seems that the Secretary of Agrarian Reform erred in issuing Memorandum Circular No. I, Series of 1995, directing the DARAB to refrain from hearing valuation cases involving PD 27 lands. For on the contrary, it is the DARAB which has the authority to determine the initial valuation of lands involving agrarian reform[30] although such valuation may only be considered preliminary as the final determination of just compensation is vested in the courts.[31]

Second, petitioner LBP contends that the Court of Appeals cannot issue the Writ of Mandamus because it cannot be compelled to perform an act which is beyond its legal duty.[32] Petitioner cites Sec. 2 of PD 251,[33] which amended Sec. 75 of RA 3844,[34] which provides that it is the duty of petitioner bank "(t)o finance and/or guarantee the acquisition, under Presidential Decree No. 85 dated December 25, 1972, of farm lands transferred to the tenant farmers pursuant to Presidential Decree No. 27 (P.D. 27) dated October 21, 1972." Section 7 of PD 251 also provides that "(w)henever the Bank pays the whole or a portion of the total costs of farm lots, the Bank shall be subrogated by reason thereof, to the right of the landowner to collect and receive the yearly amortizations on farm lots or the amount paid including interest thereon, from tenant-farmers in whose favor said farm lot has been transferred pursuant to Presidential Decree No. 27, dated October 21, 1972" (emphasis supplied).

Petitioner further argues that for a financing or guarantee agreement to exist there must be at least three (3) parties: the creditor, the debtor and the financier or the guarantor. Since petitioner merely guarantees or finances the payment of the value of the land, the farmer-beneficiary's consent, being the principal debtor, is indispensable and that the only time petitioner becomes legally bound to finance the transaction is when the farmer-beneficiary approves the appraised land value. Petitioner fears that if it is forced to pay the value as determined by the DARAB, the government will suffer losses as the farmer-beneficiary, who does not agree to the appraised land value, will surely refuse to reimburse the amounts that petitioner had disbursed. Thus, it asserts, that the landowner, the DAR, the Land Bank and the farmer-beneficiary must all agree to the value of the land as determined by them.

A perusal of the law however shows that the consent of the farmer-beneficiary is not required in establishing the vinculum juris for the proper compensation of the landowner. Section 18 of RA 6657 states -

> Sec. 18. Valuation and Mode of Compensation. - *The LBP shall compensate the landowner in such amount as may be agreed upon by the landowner and the DAR and the LBP in accordance with the criteria provided for in Sections 16 and 17 and other pertinent provisions hereof, or as may be finally determined by the court as the just compensation for the land* (emphasis supplied).

As may be gleaned from the aforementioned section, the landowner, the DAR and the Land Bank are the only parties involved. The law does not mention the participation of the farmer-beneficiary. However, petitioner insists that Sec. 18 of RA 6657[35] does not apply in this case as it involves lands covered by PD 27. It argues