

## TWENTY-THIRD DIVISION

[ CA-G.R. SP NO. 05335-MIN, February 27, 2015 ]

**FAUSTO SENDRIJAS, REPRESENTED BY HERMOGENES M. RECAMADAS, PETITIONER, VS. HEIRS OF TOMAS C. LIBA, SR., REP. BY HIS WIFE NATIVIDAD LIBA, DEPARTMENT OF AGRARIAN REFORM (REP. BY FE B. MERCADO) AND THE REGISTER OF DEEDS OF AGUSAN DEL SUR, RESPONDENTS.**

### D E C I S I O N

**CONTRERAS, J.:**

Before the Court is a petition for review, under Rule 43 of the Revised Rules of Court, seeking to reverse and set aside the Decision<sup>[1]</sup> dated April 23, 2012 of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB Case No. 13671 (Reg. Case No. XIII (03)-3030), which reversed the Decision<sup>[2]</sup> dated November 4, 2004 of Regional Adjudicator Jimmy V. Tapangan of the Office of the Provincial Adjudicator, San Francisco, Agusan del Sur.

#### The Antecedents

Petitioner claims to be the actual claimant, possessor, and cultivator of an approximately five (5)-hectare portion of a parcel of agricultural land known as Lot No. 1188, SWO-42000, which contains an entire area of 7.3599 hectares and is located in Nurica, Del Monte, Talacogon, Agusan del Sur. Petitioner claims to have been cultivating said portion of land since 1975. He was later joined by his brother-in-law, Hermogenes M. Recamadas, in 1984.

However, on April 27, 1989, an Original Certificate of Title (OCT) No. D-491 covering the entire area was issued in the name of Tomas C. Liba, Sr., the respondents' predecessor-in-interest. The OCT was issued pursuant to Homestead Patent No. 06408.

In consequence thereof, petitioner brought the matter to the Municipal Agrarian Reform Office (MARO) of Talacogon, Agusan del Sur which led to the execution by petitioner and the late Tomas Liba, Sr., of a Mutual Agreement dated August 10, 1989 which states:

x x x

Both parties involved openly agreed to settle this problem among themselves in order to maintain agrarian peace, and mutually covenanted, compromised, to respect all stipulations contained in these undertakings necessary to attain peace, to wit:

That the SECOND PARTY [Tomas Liba, Sr.] is reiterating his demand for

cancellation of lot no. 1188, which accordingly is erroneously entered in his name; that he warrants the veracity of the FIRST PARTY, being the true and lawful cultivator, allocatee, of said lot no. 1188;

That he manifestly confessed that he is an applicant of lot no. 1186 of which, he introduced improvements for several years; and that he is praying that title to lot no. 1186 be issued in his name in lieu of lot no. 1188 which was issued in his name;

That the FIRST PARTY on the other hand covenanted to respect of [sic] whatever verdict this agency would apply just to resolve and maintain the so-called agrarian peace among themselves;

x x x

On October 10, 1990, another written agreement was entered into by the petitioner and Tomas Liba, Sr., wherein the parties agreed to wit:

x x x

In our mediation we agree the following:

That the herein respondent recognizes as he hereby acknowledge the fact that the herein complainant is a part-owner of his agricultural land located [in] Nurica, Del Monte, Talacogon, Agusan del Sur and which land is included in the title of the former bearing the number D-491 with a Homestead Patent number 06408 issued on April 27, 1989.

That the herein respondent further acknowledge that the herein complainant owns a total of Five hectares in the aforecited land and that they would cause later on for separation of the title bearing no. D-491 or agree for the transfer of the same in favor of either of them provided it shall be done after the lapse of the period stipulated in the Original Certificate of Title.

That this agreement shall be binding not only between the parties but also to their heirs and successors in interest.

That this agreement was translated to the above-mentioned parties in a Visayan dialect

x x x

Since the agreement did not materialize, petitioner filed on May 27, 2004, a Complaint for Cancellation or Amendment of Title with the Provincial Agrarian Reform Office (PARO), San Francisco, Agusan del Sur docketed as DARAB Case No. XIII (03)-3030.

In their Answer<sup>[3]</sup> filed on June 30, 2004, private respondents Heirs of Tomas C. Liba, Sr., admitted petitioner's cultivation, for a time, of a portion of Lot No. 1188. They alleged that in 1981, however, petitioner together with his family left for Bohol, thus, permanently leaving his cultivation of the land. They, likewise, admitted the existence of the agreements entered into by petitioner and their predecessors-in-

interest Tomas Liba, Sr. but averred that they have learned about it only upon the filing of the case. Furthermore, they assailed the alleged authority granted by petitioner to Hermogenes M. Recamadas arguing that the latter's entry into the property cannot be for and in behalf of petitioner as the latter did not even qualify as an agrarian reform beneficiary. Besides, private respondents added that Recamadas cannot himself qualify as beneficiary of the subject property as he was already an awardee of its adjacent lot evidenced by OCT No. 592.

On November 4, 2004, Regional Adjudicator Jimmy V. Tapangan issued a Decision<sup>[4]</sup> in favor of petitioner. The *fallo* of the decision, states:

WHEREFORE, foregoing premises considered, decision is hereby rendered as follows:

1. Ordering the Register of Deeds of Agusan del Sur to cause to be corrected Original Certificate of Title No. D-491 so as to indicate therein the area of three (3) hectares for the titleholder Tomas Liba, Sr.;
2. For the DAR, thru its MARO in Talacogon, Agusan del Sur, to screen and qualify other beneficiaries for the remaining areas within OCT, D - 491 including herein complainant Sendrijas if qualified (other than his alleged non-occupation);
3. For said MARO to generate Certificate of Land Ownership Awards (CLOAs) as there are beneficiaries so qualified, and to thereafter initiate action for the cancellation of OCT, D-491.

Aggrieved, the private respondents appealed the November 4, 2004 Decision to the DARAB.

In its now assailed Decision<sup>[5]</sup> dated April 23, 2012, the DARAB granted the appeal and thus set aside the November 4, 2004, Decision of the regional adjudicator, to wit:

WHEREFORE, premises considered, the [a]ppealed Decision is hereby SET ASIDE and a NEW JUDGMENT is rendered, DISMISSING the case for lack of merit.

The DARAB pointed out that since the late Tomas Liba, Sr., was a homestead patent beneficiary, his right is superior to that of a mere tenant as guaranteed by the Agrarian Reform Law. Further, the DARAB ruled that it has no authority to correct or amend a homestead patent title for such jurisdiction lies with the Land Registration Authority (LRA). In addition, the DARAB declared that even if the agreements entered into by the parties were authentic, the same would still be voided since a grantee or homesteader is prohibited from alienating to a private individual a land grant within five years from the time that the patent or grant is issued.

Hence, this petition based on the ground, that:

The DARAB erred in setting aside and dismissing the case on alleged grounds that the subject of this case is a HOMESTEAD PATENT which cannot be alienated and that the DARAB is devoid of the power and/or authority to correct or amend a Homestead Patent Title.