

## TWELFTH DIVISION

[ C.A. G.R. SP No. 130902, October 22, 2014 ]

**DANILO DC. ALEJANDRO, PETITIONER, VS. HEIRS OF PAMFILO ALEJANDRO, NAMELY: MARIANITA, PATROCINA, BALTAZAR, GAUDENCIO, SILVINO, FORTUNATO, ALL SURNAMED ALEJANDRO, AND MERCEDES VDA. DE ALEJANDRO, REPRESENTED BY: RANNY AND NENITA ALEJANDRO, RESPONDENTS.**

**DEPARTMENT OF AGRARIAN REFORM AND REGISTER OF DEEDS OF TALAVERA, NUEVA ECIIJA, PUBLIC RESPONDENTS.**

### DECISION

**SALANDANAN-MANAHAN, J.:**

Land has spawned countless disputes because man is inexorably bound to it from cradle to grave for domicile, life, sustenance, and other fundamental needs. For others, having a small landholding is their only means to get out of bondage and oppression or to build a promising future for their progeny.<sup>1</sup> This is perhaps what the progenitor of the contending siblings had in mind when he applied to be a beneficiary of the land reform law, never to have imagined that the land he hoped to set his family free from poverty will cause the instant strife.

### **THE CASE**

Before this Court is a *Petition for Review*<sup>[2]</sup> under Rule 43 of the 1997 Revised Rules of Civil Procedure and Section 54 of Republic Act (RA) 6657 seeking to annul and modify the following issuances of the Department of Agrarian Reform Adjudication Board (DARAB):

1. Decision<sup>[3]</sup> promulgated on August 15, 2012; and
2. Resolution<sup>[4]</sup> promulgated on June 27, 2013 which denied the Motion for Reconsideration<sup>[5]</sup> filed by the petitioner.

### **THE ANTECEDENTS**

The instant family feud was the result of contending claims between petitioner on one side and the matriarch and other siblings on the other over two (2) parcels of agricultural land with an aggregate area of 8,995 square meters, more or less, situated at Poblacion Sur, Talavera, Nueva Ecija.<sup>[6]</sup>

The two (2) parcels of agricultural land in *litis* were acquired by Pamfilo Alejandro (Pamfilo), the patriarch of the parties, during his lifetime and covered by the

following titles:

(a) TCT No. EP No. 37299 covering a land area of 4,481 square meters and was issued on December 15, 1988; and

(b) TCT No. EP No. 37696 covering a land area of 4,514 square meters and was issued on January 02, 1989.<sup>[7]</sup>

On July 11, 1996, Pamfilo passed away. He was survived by his wife and nine (9) children.<sup>[8]</sup>

After eleven years from the demise of Pamfilo or on July 12, 2007, private respondents filed DARAB Case No. 597<sup>[9]</sup> for partition asking that they be declared co-owners in equal shares of the two (2) parcels of agricultural land and seeking that the subject landholdings be partitioned among themselves in accordance with the laws on succession. Private respondents averred that when Pamfilo died in 1996, he left his wife and nine (9) children as his heirs thereby making them as co-owners *pro-indiviso* of the said landholdings. Except herein petitioner, all of the heirs are amenable to the partition of the said parcels of land in order to put an end to the co-ownership.<sup>[10]</sup>

Several demands were allegedly made to petitioner but for unknown reason, he refused to partition the landholdings. Private respondents brought the matter before the Barangay Agrarian Reform Committee (BARC) but petitioner and his spouse failed to appear.<sup>[11]</sup>

On August 8, 2007, petitioner filed his Answer with Affirmative Defense and Motion to Dismiss<sup>[12]</sup> in DARAB Case No. 597 on the ground that no BARC Certification was presented to show that the controversy passed through the BARC as required under the DARAB Rules. The said Motion to Dismiss was denied in PARAD's October 10, 2007 Resolution<sup>[13]</sup> on the basis that the lack of BARC Certification is not a ground for the dismissal of action.

On even date or on August 08, 2007, petitioner filed a separate case docketed as DARAB Case No. 615<sup>[14]</sup> for cancellation of TCT No. EP No. 37696 which was registered under the name of Pamfilo. Petitioner alleged that the parcel of land covered by TCT No. EP 37696 was previously owned by Oscar Ventanilla.<sup>[15]</sup>

Sometime in 1977, Pamfilo transferred possession and actual cultivation of the said parcel of land to herein petitioner as the eldest child and as its regular farm worker. From then on, it was the petitioner who has been paying the necessary lease rentals and amortization of the agricultural land to Oscar Ventanilla.<sup>[16]</sup>

In 1989, upon issuance of TCT No. EP 37696, Pamfilo surrendered to petitioner the owner's duplicate copy thereof. Petitioner then started paying the real estate tax of the land covered by TCT No. EP 37696.<sup>[17]</sup>

To the mind of petitioner, full ownership has been transferred to him. Hence

petitioner seeks the cancellation of TCT No. EP 37696 which was previously registered in the name of Pamfilo A. Alejandro and pray for the issuance of a new emancipation patent in his name.

Eventually DARAB Case No. 597 and DARAB Case No. 615 were consolidated.

On March 31, 2008, Presiding Adjudicator Marvin V. Bernal, Provincial Agrarian Reform Adjudication Board (PARAD), Nueva Ecija rendered a Joint Decision.<sup>[18]</sup> PARAD ruled that lands acquired under the Land Reform Program of the Government shall not be partitioned as it leads to fragmentation which is abhorred by the agrarian reform laws. PARAD found the provisions of Administrative Order No. 14, series of 1988 applicable hence ordered that a collective title in the name of the heirs be issued. The *fallo* of the Joint Decision reads:

WHEREFORE in view of the foregoing, judgment is hereby rendered as follows:

- (a) DISMISSING the petition for partition;
  - (b) DECLARING TCT No. EP 37696 and TCT No. EP 37292 registered in the name of PAMFILO ALEJANDRO as NULL and VOID and to HAVE NO FORCE AND EFFECT upon rendition of this judgment;
  - (c) ORDERING the MARO concerned to cause the generation of the new Emancipation Patents in favor of the HEIRS OF PAMFILO ALEJANDRO;
  - (d) ORDERING further the Register of Deeds to cancel TCT No. EP 37696 and TCT No. EP 37292, and to register the new Emancipation patent thus generated;
  - (e) NO COSTS.
- SO ORDERED.

Unperturbed, petitioner appealed<sup>[19]</sup> on the ground that the PARAD committed errors in the findings of fact or conclusion of law. Petitioner further prayed that he be allowed to litigate as pauper.

On May 13, 2008, an Order<sup>[20]</sup> was issued by the PARAD admitting the Notice of Appeal and granting the Motion to Litigate as Pauper.

While appeal before the DARAB is pending, petitioner filed Urgent Motions To Issue Temporary Restraining Order (TRO) and To Cite [Private Respondents] Heirs in Contempt of Court<sup>[21]</sup> with the PARAD alleging that despite receipt of his Notice of Appeal private respondents still subdivided and fenced for partition the whole disputed lands by putting markers (*mohon*) and planted coconut trees inside the premises of petitioner, contrary to the decision of the PARAD.

Petitioner further asseverated that: private respondents mauled and kidnapped him and was brought to the house of private respondent Gaudencio on October 22,

2007; his spouse was mauled by private respondents sometime in April 30, 2008; on May 17, 2008, private respondents destroyed the planted squash and harvested the fruits planted thereon without his permission, to his prejudice as those are the main source of income of his family.<sup>[22]</sup>

The foregoing acts of harassment compelled petitioner to file criminal complaints before the DOJ which were docketed as I.S. Nos. 08E-1166 and 08 E-1274.<sup>[23]</sup> Thus, to avoid bloodshed and untoward incidents among siblings, petitioner prayed that a temporary restraining order be issued to restrain private respondents from entering the premises of the petitioner.<sup>[24]</sup>

On June 12, 2008, petitioner filed his Appeal Memorandum<sup>[25]</sup> arguing that when their father, Pamfilo, died in 1996, the private respondents allowed eleven (11) years to lapse before they decided to partition the subject lands which include the 4,514 square meters owned by petitioner in view of his continuous possession and actual cultivation for thirty (30) years.

On May 15, 2009, petitioner again filed a Urgent 2<sup>nd</sup> Motion for An Ocular Inspection and Issuance of Temporary Retraining Order<sup>[26]</sup> with the DARAB. Petitioner alleged that his Urgent Motions To Issue Temporary Restraining Order (TRO) and To Cite [Private Respondents] Heirs in Contempt of Court filed on May 28, 2008 were not acted upon by the PARAD as the folders of cases were already forwarded to the DARAB on July 07, 2008.

Petitioner also claimed that despite the appeal, private respondents unstopably harass and intimidate the petitioner and his family prompting the latter to file two (2) separate criminal cases of frustrated murder and theft against Brgy. Captain Franklin, Nenita, Gaudencio, Patrocinia all surnamed Alejandro before the DOJ of Cabanatuan City. However, inasmuch as the aforecited unlawful acts affected most of the children of the petitioner, the latter withdrew the criminal complaints. Against his will, petitioner signed the Deed of Extra Judicial Partition with Waiver prepared by private respondents without him knowing and understanding the contents thereof.<sup>[27]</sup>

Also, despite the pendency of an appeal, private respondent illegally subdivided the land in dispute including the portion personally cultivated by petitioner and his family and without authority of law sold the subdivided lots by portion to the following person: (1) Ding Santos; (2) Rado Villiania; (3) Norma Flores; (4) Dante Manabat and (5) Bobbit Lina and certain Henry and Ino.<sup>[28]</sup>

To prove that an immediate issuance of a TRO is necessary to prevent private respondents from continuously selling the subject lands, petitioner likewise requested that an ocular inspection be conducted to the land in dispute.<sup>[29]</sup>

On October 08, 2010, DARAB issued an Order<sup>[30]</sup> directing the private respondents to file comment/answer on the Urgent 2<sup>nd</sup> Motion for An Ocular Inspection and Issuance of Temporary Retraining Order.

On August 15, 2012, DARAB rendered the now assailed Decision<sup>[31]</sup> that dismissed

the appeal and modified PARAD's March 31, 2008 Joint Decision by dismissing both petition for lack of merit. DARAB based its decision on Memorandum Circular No. 19, s. 1978 which provides:

Pursuant to the provisions of Presidential Decree No. 27, and Policy of the Government laid down in the Code of Agrarian Reforms to establish owner-cultivatorship and the economic family size farm as the basis of agricultural development of the country, the following rules and regulations shall be observed in the event of death of a tenant-beneficiary:

1. Succession to the farmholding covered by Operation Land Transfer, shall be governed by the pertinent provisions of the New Civil Code of the Philippines subject to the fragmented;

(a) The farmholding shall not be partitioned or fragmented;

xxx      xxx      xxx

(3) Extra-judicial settlement between the heirs and/or waiver of rights in favor of one heir, should there be several heirs.

(b) Where there are several heirs, and in the absence of extra judicial settlement or waiver of rights in favor of one heir shall within one month from the death of the tenant-beneficiary be free to choose from among themselves one who shall have sole ownership and cultivation of the land, subject to Paragraph 1 (b) and (c) hereof: Provided however, That [sic] the surviving spouse shall be given first preference; otherwise, in the absence or due to the permanent incapacity of the surviving spouse, priority shall be determined among the heirs according to age (emphasis supplied).

The DARAB likewise rejected the allegation of petitioner, for failure to substantiate, that the land covered by TCT No. EP 37696 was transferred to him by their deceased father, Pamfilo.

Undaunted, petitioner filed a Motion for Reconsideration<sup>[32]</sup> which was denied by DARAB in its June 27, 2013 Resolution<sup>[33]</sup>.

Hence, the instant Petition for Review with Motion to Litigate as Farmer Pauper-Litigant<sup>[34]</sup> anchored on the sole ground:

THE HONORABLE BOARD COMMITTED ERROR AMOUNTING TO EXCESS OF JURISDICTION FOR FAILURE TO EXPRESSLY RENDER A CONCLUSIVE JUDGMENT AND LEAVE INJUNCTIVE MOTIONS UNSETTLED VIOLATIVE [OF] SECTION 17 (2) EXECUTIVE ORDER NO. 229 AND SECTION 4 (J)<sup>[35]</sup> EXECUTIVE ORDER NO. 129-A OF R.A. 6657.<sup>[36]</sup>