

TWELFTH DIVISION

[CA-G.R. SP NO. 87113, August 25, 2006]

**ELENO A. KABANLIT, JR., TEODORO NAYBE, PHILIPPINE
VETERANS BANK, PETITIONERS, VS. LAZARO CRUZ AND
FRANCISCO CRUZ, RESPONDENTS.**

D E C I S I O N

ASUNCION-VICENTE, J.:

Before Us is a petition for review assailing the decision dated February 5, 2004 rendered by the Department of Agrarian Reform Adjudication Board (DARAB) Appeals Board, which dismissed the appeal of petitioners and affirmed *in toto* the decision dated March 12, 1997 of the Provincial Agrarian Reform Adjudicator in DARAB Case No. 5998 (Reg. Case No. 1113-Bul '95), and the resolution dated September 20, 2004 which denied their motion for reconsideration.

The Facts

Culled from the record are the following factual antecedents:

On September 28, 1995, Lazaro Cruz and Francisco Cruz (hereinafter, respondents) filed a complaint^[1] for maintenance of physical possession^[2] against Eleno A. Kabanlit, Jr., Teodoro Naybe and Philippine Veterans Bank (hereinafter, petitioners) before the DARAB Region III.

Respondents alleged that they are the lawful owners-cultivators of three (3) parcels of agricultural land (subject lots) situated in Barangay Caniogan, Calumpit, Bulacan which were granted to them by the Department of Agrarian Reform (DAR) pursuant to the Operation Land Transfer Program wherein lands are acquired by the government for distribution to farmer-beneficiaries as evidenced by Certificate of Land Ownership Awards (CLOA) Nos. 00243955, 00243956 and 00243957; that the subject lots were formerly owned by the Philippine Veterans Bank (hereinafter, PVB); that PVB, through its division manager Eleno A. Kabanlit, Jr., Teodoro Naybe and other armed men entered the subject lots and fenced the same with barbed wires preventing respondents from entering the same; that respondents filed a complaint with the Barangay Agrarian Chairman of Caniogan, Calumpit, Bulacan who conducted an ocular inspection and verified that the subject lots are guarded by armed men led by Teodoro Naybe; and that accordingly, a report confirming the truth of the complaint was filed with the Municipal Agrarian Reform Office (MARO) of Calumpit.

In their Answer with Counterclaim,^[3] petitioners admitted having fenced the subject lots with barbed wires. However, they alleged that PVB merely exercised its right as owner of the subject lots pursuant to Articles 429 and 430 of the Civil Code, which provides:

"ARTICLE 429. The owner or lawful possessor of a thing has the right to exclude any person from the enjoyment and disposal thereof. For this purpose, he may use such force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property.

ARTICLE 430. Every owner may enclose or fence his land or tenements by means of walls, ditches, live or dead hedges, or by any other means without detriment to servitudes constituted thereon."

In their position paper^[4] filed on September 6, 1996, petitioners further alleged that the subject lots were previously mortgaged by the spouses Ramon and Gloria Tantoco and Ms. Trinidad Estonina; that PVB foreclosed the mortgage when the mortgagors failed to pay their loan; that PVB acquired the subject lots as the highest bidder and titles thereto were consolidated and registered in the name of PVB in 1984 under Transfer Certificates of Title Nos. 226773, 226774 and 283864; that from 1985 to 1992, PVB was placed under rehabilitation by the Central Bank, which leased the subject lots to respondent Lazaro Cruz; that the lease contracts were terminated due to respondent Lazaro Cruz's failure to pay the rental fee; that in September 1995, PVB under the supervision of Eleno A. Kabanlit, Jr. and Teodoro Naybe fenced the subject lots with barbed wires to prevent illegal intrusions into the subject lots; that PVB was not informed that the subject lots were placed under the coverage of the Comprehensive Agrarian Reform Program (CARP) and that the subject lots were awarded in favor of respondents; and that PVB came to know of the CLOAS issued in favor of respondents only after it received a copy of the complaint filed by the latter.

On March 12, 1997, the Provincial Adjudicator of DARAB Region III rendered a decision,^[5] the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiffs (respondents) and against the defendants (petitioners PVB, Teodoro Naybe and Eleno Kabanlit) and order is hereby issued:

1. Declaring the Certificates of Land Ownership Award issued to the plaintiffs Lazaro N. Cruz and Francisco T. Cruz valid and binding;
2. Ordering defendants and all other persons acting in their behalves (sic) to cease and desist from molesting, interfering, harassing the plaintiffs in their peaceful possession over the subject parcels of lands;
3. Ordering the defendants to pay the plaintiffs the sum of P50,000.00 as exemplary damages and another P30,000.00 as moral damages.
4. No pronouncement as to costs.

SO ORDERED."^[6]

Petitioners appealed to the DARAB Appeals Board, which rendered a decision dated February 5, 2004 affirming *in toto* the decision of the Provincial Agrarian Reform

Adjudicator.^[7]

Petitioners filed a Motion for Reconsideration^[8] of the DARAB Appeals Board's decision but the motion was, however, denied in a Resolution dated September 20, 2004.^[9]

The Issues

Aggrieved, petitioners filed the instant petition for review raising the following issues:

"I. THE DARAB GRAVELY ABUSED ITS DISCRETION WHEN IT AFFIRMED THE ORDER OF THE PROVINCIAL ADJUDICATOR DIRECTING THE PETITIONERS TO CEASE AND DESIST FROM MOLESTING, INTERFERING, HARASSING THE RESPONDENTS IN THEIR PEACEFUL POSSESSION OVER THE SUBJECT PROPERTIES.

II. THE DARAB GRAVELY ABUSED ITS DISCRETION WHEN IT AFFIRMED THE ORDER OF THE PROVINCIAL ADJUDICATOR FOR THE PETITIONERS TO PAY RESPONDENTS THE SUM OF P50,000.00 AS EXEMPLARY DAMAGES AND P30,000.00 AS MORAL DAMAGES."^[10]

The pivotal issue to be resolved, as We see it, is whether or not respondents, on the strength of their CLOAS, are entitled to the peaceful possession of the subject lots.

The Court's Ruling

The petition is devoid of merit. We affirm the assailed DARAB decision.

Petitioners allege that respondents failed to prove that they committed acts of molestation and harassment against the latter; that as the titles over the subject lots are still registered under the name of PVB, it can exercise acts of ownership, which include fencing or enclosing the subject lots; that PVB employed security guards for the protection of petitioners Naybe and Cabanlit and denied employing "goons"; that respondents who were former lessees of PVB became usurpers on the subject lots when the lease expired and they ceased paying rentals; and that the CLOAs issued in favor of respondents are doubtful and are presently the subject of an action for annulment.

Petitioners arguments do not persuade.

The record shows that the subject lots were legally acquired by the government and distributed to beneficiaries of its land transfer program pursuant to Chapter V, Section 16 of Republic Act No. 6657, otherwise known as "An Act Instituting A Comprehensive Agrarian Reform Program To Promote Social Justice And Industrialization, Providing The Mechanism For Its Implementation, And For Other Purposes" (CARL), which provides:"SECTION 16. Procedure for Acquisition of Private Lands. — For purposes of acquisition of private lands, the following procedures shall be followed:

(a) After having identified the land, the landowners and the beneficiaries, the DAR shall send its notice to acquire the land to the owners thereof,