Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

HEIRS OF SANTIAGO NISPEROS, TEODORICO NISPEROS, RESTITUTA LARON, CARMELITA H. NISPEROS, VIRGILIO H. NISPEROS, CONCHITA H. NISPEROS, PURITA H. NISPEROS, PEPITO H. NISPEROS, REBECCA H. NISPEROS, ABRAHAM H. NISPEROS, IGNACIO F. NISPEROS, RODOLFO F. NISPEROS, RAYMUNDO F. NISPEROS, RENATO F. NISPEROS, FE N. MUNAR, BENITO F. NISPEROS, REYNALDO N. NISPEROS, MELBA N. JOSE, ELY N. GADIANO, represented by TEODORICO NISPEROS,
Petitioners,

- versus -

MARISSA NISPEROS-DUCUSIN,
Respondent.

G.R. No. 189570

Present:

SERENO, *C.J.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
PEREZ,* *JJ.*

Promulgated:

JUL 31 2013

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DECISION

VILLARAMA, JR., *J.*:

Before the Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the July 13, 2009 Decision[1] and September 14, 2009 Resolution[2] of the Court of Appeals (CA)

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* Designated additional member per Raffle dated July 8, 2013.

1 *Rollo*, pp. 32-44. Penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Bienvenido L. Reyes (now a member of this Court) and Isaias P. Dicdican concurring.

2 Id. at 46-47.

in CA-G.R. SP No. 105898. The appellate court affirmed the Decision[3] of the Department of Agrarian Reform Adjudication Board (DARAB) upholding the validity of the Deed of Voluntary Land Transfer and Original Certificate of Title (OCT) No. CLOA-623 issued in favor of respondent Marissa Nisperos-Ducusin.

The instant case stemmed from a complaint[4] filed by petitioners with the DARAB alleging the following antecedents:

The 15,837-square-meter parcel of land subject of the instant case is part of the 58,350-square-meter agricultural land in Pao Sur, San Fernando City, La Union acquired by Santiago Nisperos, the predecessor of petitioners, during his lifetime. He declared said property for taxation purposes starting December 1947.[5]

When Santiago and his wife Estefania died, they were survived by their nine children: Tranquilino, Felix, Olling, Maria, Lenardo, Millan, Fausto, Candido and Cipriana. The heirs of Santiago, petitioners herein, claim that the subject property was occupied, controlled and tilled by all nine children of Santiago. They paid taxes for it and even hired farm workers under Maria and Cipriana's supervision for the cultivation of the same. For taxation purposes, however, it was initially declared only under the name of Maria.[6] Starting 1988, it was declared under the names of Maria and Cipriana.[7]

During the time when Maria and Cipriana were overseeing the property, Maria took respondent Marissa Nisperos-Ducusin, a daughter of their cousin Purita, as her ward and raised her like her own child.

On February 12, 1988, Maria and Cipriana, acting as representatives of their other siblings, executed a Deed of Donation *Mortis Causa*[8] in favor of petitioners over the 58,350-square-meter property and another 46,000-square-meter property.

On April 28, 1992, a Deed of Voluntary Land Transfer[9] (VLT) over the subject property was executed between Maria and Cipriana as landowners, and respondent, who was then only 17 years old, as farmer-beneficiary. The instrument was signed by the three in the presence of witnesses Anita, Lucia and Marcelina Gascon and Municipal Agrarian Reform Officer Susimo Asuncion. The same was notarized by Notary Public Atty. Roberto E. Caoayan.

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3 Records, pp. 97-106. The records are reversely paginated from page 97 to 128.
4 Id. at 66-70.
5 Id. at 73.
6 Id. at 74-84.
7 Id. at 85-86.
8 Id. at 87.
9 Id. at 88.

On June 24, 1992, Certificate of Land Ownership Award (CLOA) No. 0002122453902[10] was issued to respondent by the Department of Agrarian Reform (DAR) over the subject property. By virtue of said CLOA, OCT No. CLOA-623[11] was issued to respondent a month later, or on July 24, 1992.

Alleging fraud on the part of respondent which petitioners claim to have discovered only in August 2001, petitioners filed a complaint on September 6, 2001 with the Municipal Agrarian Reform Office (MARO) of San Fernando City, La Union. Unfortunately, no settlement between petitioners and respondent was reached prompting the MARO to issue a Certificate to File Action.[12]

On January 23, 2002, petitioners filed with the DARAB a complaint for annulment of documents and damages against respondent. Petitioners contended that the transfer of ownership over the subject land was made without the consent of the heirs of Santiago and that respondent took advantage of Maria's senility and made it appear that Maria and Cipriana sold said property by virtue of the VLT. They further alleged that said document was falsified by respondent because Maria could not anymore sign but could only affix her thumbmark as she did in a 1988 Deed of Donation. To support their complaint, they attached a Joint Affidavit of Denial[13] by Anita and Lucia Gascon the supposed instrumental witnesses to the VLT. In said affidavit, Anita and Lucia claimed that the signatures appearing therein are not theirs as they never affixed their signatures on said document. They further stated that they were never aware of said document.

Petitioners likewise asseverated in their complaint that respondent committed fraud because she was not a bona fide beneficiary as she was not engaged in farming since she was still a minor at that time and that she could not validly enter into a contract with Maria and Cipriana.

On March 6, 2002, respondent filed a Motion to Dismiss[14] petitioners' complaint. She argued that the action for annulment of the VLT and the OCT/CLOA and the claim for damages have already prescribed.

In an Order[15] dated April 17, 2002, the DARAB Regional Adjudicator denied respondent's Motion to Dismiss and ordered her to file her answer to the complaint.

In respondent's Answer with Counterclaim[16] dated July 7, 2002, respondent alleged that Maria and Cipriana acquired the property from Santiago and possessed the same openly, continuously, exclusively and publicly; thus, the consent of petitioners is not necessary to the VLT. She

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10 Id. at 90. Sometimes referred to as CLOA/OCT No. 00021224 in some parts of the records.
11 Id.
12 Id. at 91.
13 Id. at 89.
14 Id. at 61-64.
15 Id at 53.
16 Id. at 34-42.

denied the allegations of fraud and falsification, and insisted that she is a bona fide beneficiary as she has been tilling the land with her parents even before 1992. She added that her minority does not disqualify her from availing the benefits of agrarian reform.

On October 16, 2002, DARAB Regional Adjudicator Rodolfo A. Caddarao rendered a Decision[17] annulling the VLT and OCT/CLOA in respondent's name. The *fallo* of the said decision reads:

> WHEREFORE, premises considered, judgment is hereby rendered as follows:
>
> 1. Declaring Deed of Voluntary [L]and Transfer dated April 28, 1992 executed by Maria Nisperos in favor of Marissa Nisperos annulled or cancelled and [without] force and effect for having been executed not in accordance with agrarian laws;
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> 2. Declaring OCT No. 00021224 in the name of Marissa D. Nisperos annulled or cancelled on the ground of material misrepresentation of the alleged agrarian reform beneficiary.
>
> 3. Directing the Register of Deeds of La Union to cause the cancellation of the aforementioned title;
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> 4. Directing the concerned Assessor's Office to reinstate the tax declaration of said landholding in the name of Maria and Cipriana Nisperos;
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> 5. Directing the parties to refer this problem with the court so that the issue of ownership of the landholding could be finally resolved; and
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> 6. Dismissing the other ancillary claims and counterclaims for lack of merit and evidence.
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> SO ORDERED.[18]

The Regional Adjudicator noted that the land supposedly owned by Maria and Cipriana (which includes the 15,837-square-meter subject property) has a total area of 58,350 square meters. Considering that there are two owners, he ruled that the individual share of each would be less than five hectares each and well within the retention limit.

The Regional Adjudicator also held there was reason to believe that Maria and Cipriana's names were stated in the tax declaration for purposes of taxation only as no evidence was presented that they lawfully acquired the property from their parents. It was also ruled that the issuance of the title in respondent's name was not in accordance with agrarian laws because she cannot be considered as a tenant but more of an heir of the transferors.

Respondent contested the Regional Adjudicator's decision before the DARAB alleging that the Regional Adjudicator committed grave abuse of

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[17] Id. at 8-13.
[18] Id. at 13.

discretion. Respondent contended that the complaint should not have been given due course since other parties-in-interest such as Maria, the Register of Deeds of La Union and duly authorized representatives of the DAR were not impleaded and prescription had already set in insofar as the contestability of the CLOA is concerned. She likewise argued that being a farmer or a tenant is not a primordial requisite to become an agrarian reform beneficiary. She added that the Regional Adjudicator went beyond the scope of his authority by directing the parties to litigate the issue of ownership before the court.

On September 16, 2008, the DARAB rendered a Decision[19] reversing the decision of the Regional Adjudicator and upholding the validity of the VLT and respondent's title. The decretal portion reads:

> **WHEREFORE**, premises considered, a new judgment is hereby rendered:
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> 1. **DECLARING** the VLT executed on April 28, 1992, between respondent-appellant Marissa Nisperos-Ducusin and Maria and Cipriana Nisperos as valid and regular;
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> 2. **DECLARING** the validity of the Original Certificate of Title (OCT) CLOA No. 623 issued in the name of respondent-appellant Marissa Nisperos-Ducusin covering 15,837 square meter portion of the disputed lot; and
>
> 3. **MAINTAINING** respondent-appellant Marissa Nisperos-Ducusin in peaceful possession and cultivation of the subject lot.
>
> No costs.
>
> **SO ORDERED.**[20]

The DARAB dismissed petitioners' claim of fraud since the VLT was executed in the presence of DAR-MARO Susimo Asuncion, signed by three instrumental witnesses and notarized by Atty. Roberto E. Caoayan of the DAR. It likewise held that the records are bereft of any indication that fraud was employed in the transfer, and mere conjectures that fraud might have been exerted just because Maria was already of advanced age while respondent was her care giver or ward is not evidence. The DARAB also did not give credence to the Affidavit of Denial by the instrumental witnesses since the statements there are mere hearsay because the affiants were not cross-examined.

The DARAB likewise ruled that the fact that respondent was a minor at the time of the execution of the VLT does not void the VLT as this is the reason why there is an active government involvement in the VLT: so that even if the transferee is a minor, her rights shall be protected by law. It also held that petitioners cannot assert their rights by virtue of the Deed of

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19 Supra note 3.
20 Id. at 97-98.

Donation *Mortis Causa* allegedly executed by Maria and Cipriana in their favor since before the operative condition (the death of the donors) was fulfilled, the donation was revoked by virtue of the VLT. The DARAB further ruled that when OCT No. CLOA-623 was issued in respondent's name, she acquired absolute ownership of the landholding. Thus her right thereto has become fixed and established and is no longer open to doubt or controversy.

Aggrieved, petitioners elevated the case to the CA via a petition for review[21] where they raised the following issues: (1) whether the subject property is covered by the Comprehensive Agrarian Reform Program (CARP); (2) whether the VLT is valid having been issued through misrepresentation and fraud; and (3) whether the action for annulment had already prescribed.

On July 13, 2009, the appellate court rendered the assailed decision dismissing the petition for review and upholding the DARAB decision. It ruled that the Regional Adjudicator acted with grave abuse of discretion when it held that the subject property was no longer covered by our agrarian laws because of the retention rights of petitioners. The CA held that retention rights, exclusion of a property from CARP coverage and the qualification and disqualification of agrarian reform beneficiaries are issues not cognizable by the Regional Adjudicator and the DARAB but by the DAR Secretary. The appellate court nevertheless held that petitioners failed to discharge their burden of proving that fraud attended the execution of the VLT. It also agreed with the DARAB that considering a certificate of title was already issued in favor of respondent, the same became indefeasible and incontrovertible by the time petitioners instituted the case in January 2002, and thus may no longer be judicially reviewed.

Hence this petition before this Court raising the issues of whether the appellate court erred in:

I

> x x x DECLARING THAT THE PARAB HAS NO JURISDICTION TO RULE THAT THE SUBJECT PIECE OF LAND WAS NO LONGER COVERED BY AGRARIAN LAWS.

II

> x x x AFFIRMING THE DECISION OF THE DARAB DESPITE CLEAR AND CONVINCING EVIDENCE REGARDING THE EXISTENCE OF FRAUD.

III

> x x x RULING THAT THE CERTIFICATES OF TITLE ISSUED IN THE NAME OF THE RESPONDENT IS INDEFEASIBLE.[22]

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21 CA *rollo*, pp. 10-26.
22 *Rollo*, p. 18.

We set aside the assailed Decision and Resolution.

The complaint should have been lodged with the Office of the DAR Secretary and not with the DARAB.

Section 1, Rule II of the 1994 DARAB Rules of Procedure, the rule in force at the time of the filing of the complaint by petitioners in 2001, provides:

> SECTION 1. *Primary and Exclusive Original and Appellate Jurisdiction.* The Board shall have primary and exclusive jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes involving the implementation of the Comprehensive Agrarian Reform Program (CARP) under Republic Act No. 6657, Executive Order Nos. 228, 229 and 129-A, Republic Act No. 3844 as amended by Republic Act No. 6389, Presidential Decree No. 27 and other agrarian laws and their implementing rules and regulations. Specifically, such jurisdiction shall include but not be limited to cases involving the following:
>
> x x x x
>
> f) Those involving the issuance, correction and cancellation of Certificates of Land Ownership Award (CLOAs) and Emancipation Patents (EPs) which are registered with the Land Registration Authority;
>
> x x x x

However, it is not enough that the controversy involves the cancellation of a CLOA registered with the Land Registration Authority for the DARAB to have jurisdiction. What is of primordial consideration is the existence of an agrarian dispute between the parties.[23]

Section 3(d) of R.A. No. 6657 defines an agrarian dispute as "any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers' associations or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of such tenurial arrangements" and includes "any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee."

Thus, in *Morta, Sr. v. Occidental*,[24] this Court held that there must be a tenancy relationship between the parties for the DARAB to have jurisdiction over a case. It is essential to establish all of the following indispensable elements, to wit: (1) that the parties are the landowner and the tenant or agricultural lessee; (2) that the subject matter of the relationship is

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[23] *Sutton v. Lim*, G.R. No. 191660, December 3, 2012, 686 SCRA 745, 753.
[24] 367 Phil. 438 (1999).

an agricultural land; (3) that there is consent between the parties to the relationship; (4) that the purpose of the relationship is to bring about agricultural production; (5) that there is personal cultivation on the part of the tenant or agricultural lessee; and (6) that the harvest is shared between the landowner and the tenant or agricultural lessee.[25]

In the instant case, petitioners, as supposed owners of the subject property, did not allege in their complaint that a tenancy relationship exists between them and respondent. In fact, in their complaint, they described respondent as a "ward" of one of the co-owners, Maria, who is "not a bona fide beneficiary, she being not engaged in farming because she was still a minor" at the time the VLT was executed.[26]

It is axiomatic that the jurisdiction of a tribunal, including a quasi-judicial officer or government agency, over the nature and subject matter of a petition or complaint is determined by the material allegations therein and the character of the relief prayed for, irrespective of whether the petitioner or complainant is entitled to any or all such reliefs. Jurisdiction over the nature and subject matter of an action is conferred by the Constitution and the law, and not by the consent or waiver of the parties where the court otherwise would have no jurisdiction over the nature or subject matter of the action. Nor can it be acquired through, or waived by, any act or omission of the parties. Moreover, estoppel does not apply to confer jurisdiction to a tribunal that has none over the cause of action. The failure of the parties to challenge the jurisdiction of the DARAB does not prevent the court from addressing the issue, especially where the DARAB's lack of jurisdiction is apparent on the face of the complaint or petition.[27]

Considering that the allegations in the complaint negate the existence of an agrarian dispute among the parties, the DARAB is bereft of jurisdiction to take cognizance of the same as it is the DAR Secretary who has authority to resolve the dispute raised by petitioners. As held in *Heirs of Julian dela Cruz v. Heirs of Alberto Cruz:*

> The Court agrees with the petitioners' contention that, under Section 2(f), Rule II of the DARAB Rules of Procedure, the DARAB has jurisdiction over cases involving the issuance, correction and cancellation of CLOAs which were registered with the LRA. **However, for the DARAB to have jurisdiction in such cases, they must relate to an agrarian dispute between landowner and tenants to whom CLOAs have been issued by the DAR Secretary. The cases involving the issuance, correction and cancellation of the CLOAs by the DAR in the *administrative* implementation of agrarian reform laws, rules and regulations to parties who are not agricultural tenants or lessees are within the jurisdiction of the DAR and not of the DARAB**.[28] (Emphasis supplied.)

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25 Id. at 446.
26 Records, pp. 67, 68.
27 *Heirs of Julian dela Cruz v. Heirs of Alberto Cruz*, 512 Phil. 389, 400-401 (2005).
28 Id. at 404.

What the PARAD should have done is to refer the complaint to the proper office as mandated by Section 4 of DAR Administrative Order No. 6, Series of 2000:

> SEC. 4. *Referral of Cases.* – If a case covered by Section 2 herein is filed before the DARAB, the concerned DARAB official shall refer the case to the proper DAR office for appropriate action within five (5) days after said case is determined to be within the jurisdiction of the Secretary. Likewise, if a case covered by Section 3 herein is filed before any office other than the DARAB, the concerned DAR official shall refer the case to the DARAB for resolution within the same period provided herein.

While it is true that the PARAD and the DARAB (which was upheld by the CA) thoroughly discussed in their respective decisions the issues pertaining to the validity of the VLT and the OCT/CLOA issued to respondent, the fact that they are bereft of jurisdiction to resolve the same prevents this Court from resolving the instant petition on its merits. The doctrine of primary jurisdiction does not allow a court to arrogate unto itself authority to resolve a controversy, the jurisdiction over which is initially lodged with an administrative body of special competence.[29] To assume the power is to short-circuit the administrative process, which has yet to run its regular course. The DAR must be given a chance to correct its administrative and procedural lapses in the issuance of the CLOA.[30] Moreover, it is in a better position to resolve the particular issue at hand, being the agency possessing the required expertise on the matter and authority to hear the same.

WHEREFORE, the July 13, 2009 Decision and September 14, 2009 Resolution of the Court of Appeals in CA-G.R. SP No. 105898 are **SET ASIDE**. The complaint is **REFERRED** to the Office of the Department of Agrarian Reform Secretary for appropriate action.

No pronouncement as to costs.

SO ORDERED.

MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

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29 *Heirs of Tantoco, Sr. v. Court of Appeals*, 523 Phil. 257, 284 (2006).
30 Id.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice