



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DEPARTMENT OF AGRARIAN
REFORM, REPRESENTED BY
OIC-SECRETARY NASSER C.
PANGANDAMAN,

Petitioner,

- versus -

THE COURT OF APPEALS AND
BASILAN AGRICULTURAL
TRADING CORPORATION
(BATCO),

Respondents.

G.R. No. 170018

Present:

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

SEP 23 2013

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*¹ is the Decision² dated September 6, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 55377 which: (a) reversed and set aside the Order³ dated February 25, 1999 of the Secretary of the Department of Agrarian Reform (DAR); (b) cancelled Transfer Certificates of Title (TCT) Nos. T-1012,⁴ T-1013,⁵ and T-1014⁶ in the name of Malo-ong Canal Farmers Agrarian Reform Multi-Purpose Cooperative (MCFARMCO); and (c) directed the Registry of Deeds of the Province of Basilan (Basilan RD) to issue a new set of titles in favor of private respondent Basilan Agricultural Trading Corporation (BATCO).

¹ *Rollo*, pp. 2-21.

² *Id.* at 23-37. Penned by Associate Justice Arturo G. Tayag, with Associate Justices Rodrigo F. Lim, Jr. and Normandie B. Pizarro, concurring.

³ *CA rollo*, pp. 11-15. Penned by then DAR Secretary Horacio R. Morales, Jr.

⁴ *Id.* at 65-66. Including the dorsal portion.

⁵ *Id.* at 67-68. Including the dorsal portion.

⁶ *Id.* at 69-70. Including the dorsal portion.

The Facts

BATCO was the owner of several parcels of agricultural land, with an aggregate area of 206.5694 hectares (has.), situated in Malo-ong⁷ Canal, Lamitan, Province of Basilan (Basilan) and covered by TCT Nos. T-7454,⁸ T-7455,⁹ and T-7456¹⁰ (subject lands).¹¹ On September 20, 1989, the aforesaid lands were voluntarily offered for sale (VOS) to the government pursuant to Section 19¹² of Republic Act No. (RA) 6657,¹³ otherwise known as the “Comprehensive Agrarian Reform Law of 1988,” for a consideration of ₱12,360,000.00.¹⁴ In 1992, BATCO was notified¹⁵ that the 153.8801 hectare portion of the subject lands (subject portion), consisting of Lot Nos. 3, 4, and 5, was being placed under the compulsory acquisition scheme by the DAR.¹⁶

On January 6, 1993, BATCO reiterated its offer to sell the entire 206.5694 has. of the subject lands, but this time to include the improvements thereon, and for a higher consideration of ₱32,000,000.00.¹⁷ On May 6, 1997, BATCO received a Notice of Land Valuation and Acquisition¹⁸ dated April 15, 1997 from the DAR Provincial Agrarian Reform Officer (PARO), offering it the amount of ₱7,501,228.39 for the subject portion.¹⁹ BATCO rejected²⁰ the valuation and opposed the same before the DAR Adjudication Board (DARAB).²¹ In view of BATCO’s rejection, the DAR – following the procedure under Section 16(e)²² of RA 6657 – directed the Land Bank of the Philippines (LBP) to deposit the compensation in cash and in agrarian reform bonds²³ and thereafter requested²⁴ the Basilan RD to issue TCTs in

⁷ “Maloong” in some parts of the records.

⁸ CA *rollo*, pp. 49-50.

⁹ Id. at 51-52. Including the dorsal portion.

¹⁰ Id. at 53-54. Including the dorsal portion.

¹¹ Id. at 54-55. Including the dorsal portion.

¹² Section 19. *Incentives for Voluntary Offers for Sales.* — Landowners, other than banks and other financial institutions, who voluntarily offer their lands for sale shall be entitled to an additional five percent (5%) cash payment.

¹³ “AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES.”

¹⁴ *Rollo*, p. 38.

¹⁵ The 1992 Notice of Coverage, however, is not appended to the records of the case.

¹⁶ *Rollo*, pp. 45, 55, and 327.

¹⁷ Id. at 41-42.

¹⁸ Id. at 44.

¹⁹ Id. at 55 and 272.

²⁰ Id. at 45. Landowner’s Reply to Notice of Land Valuation and Acquisition.

²¹ Id. at 48. To note, the records do not show the outcome of the case.

²² Section 16. *Procedure for Acquisition of Private Lands.* — For purposes of acquisition of private lands, the following procedures shall be followed:

x x x x

e) Upon receipt by the landowner of the corresponding payment or, **in case of rejection** or no response from the landowner, **upon the deposit with an accessible bank designated by the DAR of the compensation in cash or in LBP bonds** in accordance with this Act, **the DAR shall take immediate possession of the land and shall request the proper Register of Deeds to issue a Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines.** The DAR shall thereafter proceed with the redistribution of the land to the qualified beneficiaries. (Emphases supplied)

²³ *Rollo*, p. 46. See Certification of Deposit dated June 13, 1997.

²⁴ Id. at 326.

the name of the Republic of the Philippines (Republic). In the meantime, the subject portion was surveyed and the beneficiaries were accordingly identified. After which, DAR Regional Director Rogelio E. Tamin (Director Tamin) directed the PARO to generate and issue the corresponding Certificates of Land Ownership (CLOAs) in favor of the identified beneficiaries even over BATCO's protest.²⁵

On February 9, 1998, then DAR Secretary Ernesto Garilao directed Director Tamin and the PARO to proceed with the registration and distribution of the CLOAs to the said identified beneficiaries.²⁶

In a letter dated March 2, 1998 to Director Tamin,²⁷ BATCO requested for the exemption of the subject portion, citing the case of *Luz Farms v. DAR Secretary*²⁸ (*Luz Farms*) and DAR Administrative Order No. (AO) 09, Series of 1993²⁹ (DAR AO 09-93).³⁰ On May 6, 1998, BATCO filed before the DAR Regional Office a petition³¹ for the exemption of the subject portion from the coverage of the government's Comprehensive Agrarian Reform Program (CARP). It alleged that almost all of the entire subject lands have been devoted to cattle and livestock production since their acquisition in 1987,³² warranting their exemption from CARP coverage in accordance with the ruling in *Luz Farms* and the provisions of DAR AO 09-93. It claimed that as of March 15, 1998, there were 150 heads of cattle, 50 heads of swine, and 50 heads of goats in the subject portion.³³ Meanwhile, BATCO's certificates of title over the foregoing were cancelled and new titles were issued in the name of the Republic on July 17, 1998.³⁴

The DAR Regional Director's Ruling

On August 12, 1998, Director Tamin issued an Order³⁵ (August 12, 1998 Order) dismissing BATCO's petition, holding that based on the DAR's ocular inspection/investigation, the subject portion was "not exclusively, directly and actually used for livestock, poultry, and swine raising as of June 15, 1988[,] the date of effectivity of RA 6657, and contrary to the spirit and intent of [DAR AO 09-93]." ³⁶ Hence, the subject portion is not exempt from CARP coverage. Moreover, under DAR AO 09, Series of 1990, VOS of

²⁵ Id. at 47-50. See Order dated December 3, 1997.

²⁶ Id. at 55.

²⁷ Id. at 56. A copy of BATCO's letter was not appended to the records. See Order dated August 12, 1998.

²⁸ G.R. No. 86889, December 4, 1990, 192 SCRA 51.

²⁹ "RULES AND REGULATIONS GOVERNING THE EXCLUSION OF AGRICULTURAL LANDS USED FOR LIVESTOCK, POULTRY AND SWINE RAISING FROM THE COVERAGE OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP)."

³⁰ *Rollo*, p. 86.

³¹ Id. at 51-53. Docketed as PPARU Case No. 0905-0005-98.

³² Id. at 52.

³³ Id. at 51-52.

³⁴ *CA rollo*, pp. 59-64. TCT Nos. T-12101, T-12102, and T-12103. Including the dorsal portions.

³⁵ *Rollo*, pp. 54-58.

³⁶ Id. at 57.

lands to the government, with the exception of lands within the retention limits, may no longer be withdrawn.³⁷

BATCO appealed³⁸ to the Office of the DAR Secretary, reiterating³⁹ its claim that the subject portion was devoted to cattle production prior to June 15, 1988 as evidenced by the appended certificates of ownership of large cattle (certificates of livestock ownership) which, according to it, “should have been the major basis in the determination of whether or not a particular landholding is devoted to such production, as claimed.”⁴⁰

In the interim, the Republic's certificates of title were cancelled on October 6, 1998 with the registration of the CLOAs in the name of MCFARMCO for the benefit of its 54 members. Accordingly, new certificates of title,⁴¹ *i.e.*, TCT Nos. T-1012, T-1013, and T-1014, were issued in favor of MCFARMCO.

The DAR Secretary’s Ruling

On February 25, 1999, then DAR Secretary Horacio R. Morales, Jr. (Secretary Morales) issued an Order⁴² (February 25, 1999 Order), denying the appeal on the ground that BATCO failed: 1) to present substantial evidence to show that the subject portion was exclusively, directly and actually used for livestock, poultry, and swine raising prior to June 15, 1988; and 2) to comply with the livestock and infrastructure requirements under DAR AO 09-93.⁴³ Secretary Morales observed that: (a) none of the

³⁷ Id. at 56-57.
³⁸ Id. at 59. See Notice of Appeal dated September 15, 1998.
³⁹ Id. at 60-68. See Appeal Memorandum.
⁴⁰ Id. at 65.
⁴¹ CA *rollo*, pp. 65-70. Including the dorsal portions.
⁴² Id. at 11-15.
⁴³ Part III (B) and (C) of DAR AO 09-93 provide:
B. In determining the areas qualified for exclusion under this Administrative Order, the following ratios of land, livestock, poultry, and swine raising shall be adopted:
1.0 Grazing
1.1 Cattle, Carabao and Horse Raising
— cattle, carabao and horses (regardless of age) — the maximum ratio is one (1) head to one (1) hectare.
1.2 Sheep and Goat Raising
— sheep and goat (regardless of age) — the maximum ratio is seven (7) heads to one (1) hectare.
2.0 Infrastructure
2.1 Cattle, Horses and Carabao Raising — a ratio of 21 heads, for every 1.7815 hectares of infrastructure
x x x x
2.2 Swine Raising — a ratio of 21 heads of hogs for every 0.5126 hectare of infrastructure.
x x x x
2.3 Sheep and Goat Raising — a ratio of 147 heads for every 0.7205 hectare of infrastructure.
x x x x
2.4 Poultry Raising — a ratio of 500 layers for every 0.53 hectare of infrastructure or 1,000 broilers for every 1.428 hectares of infrastructure.
x x x x

certificates of livestock ownership appended to the records predates the effectivity of RA 6657;⁴⁴ (b) more than half⁴⁵ of the cattle “was registered and presumably brought into the property only on March 13, 1998 onwards, barely three months before [BATCO] filed [its] application for exemption with the DAR Provincial Office on May 6, 1998”;⁴⁶ and (c) BATCO's act of submitting the subject lands (including the subject portion) under the VOS scheme is an admission that they were subject to CARP coverage.⁴⁷ Finding that the act of changing or converting the lands to livestock, poultry and swine raising after June 15, 1988 was without an approved conversion, Secretary Morales directed the Municipal Agrarian Reform Officer concerned to conduct an investigation⁴⁸ for possible violations of Section 73(c) and (e) of RA 6657.⁴⁹

BATCO filed a motion for reconsideration⁵⁰ and a supplemental motion,⁵¹ averring that prior to its acquisition of the subject lands from the Marcelo Mendoza Development Corporation (Mendoza Plantation) on February 4, 1987, the latter was already engaged in livestock raising and had facilities such as shade/barn, feed storage, corals and gates, which BATCO

C. Any act of a landowner to change or convert his agricultural land to livestock, poultry and swine raising after, 15 June 1988, with the intent to avoid the application of R.A. No. 6657 to his landholdings, shall be considered invalid and illegal and shall not affect the coverage of his landholding under CARP Conversion of crop lands to livestock, poultry and swine raising after the effectivity of this Administrative Order shall be governed by DAR Administrative Order Nos. 1 and 2, Series of 1990.

However, in lieu of Documentary Requirement Nos. 5 and 6 under Section VII of said Administrative Order No. 1-90, i.e., Certification from the Department of Agriculture (DA) or Housing Land Use Regulatory Board (HLURB) respectively, the consent of Agrarian Reform Beneficiaries and/or their waiver of rights, and a certification from the Regional Director of the DA that the poultry, livestock or swine project is of greater economic value than the present agricultural usage, shall be required.

⁴⁴ *Rollo*, p. 70.

⁴⁵ Id. The dates of the certificates of ownership of large cattle and the corresponding heads of cattle thereon are as follows:

July 21, 1988	10	
July 22, 1988	17	
March 4, 1990	19	
March 9, 1990	30	
March 13, 1998	55	55
April 1, 1998	6	6
April 2, 1998	<u>19</u>	<u>19</u>
	156	80

⁴⁶ Id. at 71.

⁴⁷ Id.

⁴⁸ Id. at 72.

⁴⁹ Section 73(c) and (e) of RA 6657 provide:
Sec. 73. *Prohibited Acts and Omissions*. — The following are prohibited:
x x x x
(c) The conversion by any landowner of his agricultural land into any non-agricultural use with intent to avoid the application of this Act to his landholdings and to dispossess his tenant farmers of the land tilled by them.
x x x x
(e) The sale, transfer, conveyance or change of the nature of lands outside of urban centers and city limits either in whole or in part after the effectivity of this Act. The date of the registration of the deed of conveyance in the Register of Deeds with respect to titled lands and the date of the issuance of the tax declaration to the transferee of the property with respect to unregistered lands, as the case may be, shall be conclusive for the purpose of this Act.
x x x x

⁵⁰ *Rollo*, pp. 74-76.

⁵¹ Id. at 77-82.

subsequently improved and developed.⁵² BATCO further admitted that only a portion (about 100 has.) of the subject lands was devoted to livestock raising, for which the corresponding exemption was prayed.⁵³ It explained that the necessary documents were in the possession of the previous owner, hence, it was unable to produce the same before the DAR Regional Director.⁵⁴ In support of the foregoing motions, BATCO submitted,⁵⁵ among others, Certificates of Ownership of Large Cattle Nos. B-3144051 to B-3144150⁵⁶ dated between July 10, 1987 to August 15, 1987,⁵⁷ and the Joint Affidavit⁵⁸ of barangay officials of Barangays Tumakid, Maloong San Jose, Maloong Canal, and Buahan, all in Lamitan, Basilan declaring that BATCO is engaged in large cattle raising. Nonetheless, BATCO affirmed that it is still offering 100 has. of the subject lands for the CARP.⁵⁹

On August 31, 1999, Secretary Morales issued an Order⁶⁰ denying BATCO's motion for reconsideration. He gave no credence to the certificates of livestock ownership belatedly submitted by BATCO, observing that the absence of a sufficient justification for its failure to present such certificates earlier casts doubt to their veracity and genuineness.⁶¹ Further, he held that *laches* had set in, especially considering that the petition was filed only in 1998, or long after the orders for coverage were issued in 1992.⁶² Finally, he pointed out that BATCO failed to present proof that it has met the infrastructure requirements under DAR AO 09-93.⁶³

The Proceedings Before the CA

BATCO's appeal was initially dismissed⁶⁴ but subsequently reinstated by the CA.⁶⁵

On September 6, 2005, the CA issued a Decision⁶⁶ reversing and setting aside Secretary Morales' February 25, 1999 Order. It ruled that *estoppel* does not lie against BATCO considering that the pertinent law and regulations did not provide for a prescriptive period for the filing of

⁵² Id. at 78.

⁵³ Id. at 81.

⁵⁴ Id. at 74-75.

⁵⁵ Id. at 79-80.

⁵⁶ Not appended to the records of the case.

⁵⁷ *Rollo*, p. 85-86.

⁵⁸ *CA rollo*, pp. 216-217.

⁵⁹ *Rollo*, p. 81.

⁶⁰ Id. at 83-90.

⁶¹ Id. at 87.

⁶² Id. at 87-88.

⁶³ Id. at 89.

⁶⁴ *CA rollo*, pp. 353-356. See Resolution dated December 29, 1999. Penned by Associate Justice Ruben T. Reyes (now retired Associate Justice of the Supreme Court), with Associate Justices Teodoro P. Regino and Edgardo P. Cruz, concurring.

⁶⁵ Id. at 365-367. See Resolution dated April 6, 2004. Penned by Associate Justice Ruben T. Reyes (now retired Associate Justice of the Supreme Court), with Associate Justices Edgardo P. Cruz and Rosalinda Asuncion-Vicente, concurring.

⁶⁶ *Rollo*, pp. 23-37.

exemption from CARP coverage.⁶⁷ Moreover, in the light of *Luz Farms*, a petition for exemption is not even necessary so long as the landholdings are devoted to livestock, poultry, and swine raising, thus, rendering DAR AO 09-93 ineffective and inconsequential.⁶⁸

The CA gave credence to BATCO's documentary evidence to support its claim of the existence and presence of livestock in the lands in question starting the year 1987 consisting of: (a) the Certification⁶⁹ dated March 26, 1998 of the Municipal Agriculturist of Lamitan, Basilan (Municipal Agriculturist Certification) as to the number of cattle found in the area; (b) the photographs⁷⁰ of the livestock therein allegedly taken on May 31, 2001 and July 5, 2005; and (c) the affidavits⁷¹ of former municipal mayors⁷² of Lamitan, Basilan – namely, Wilfrido C. Furigay and Ramon Garcia, Jr. – attesting to the existence and presence of livestock in the subject lands starting the year 1987. The CA likewise condemned the cancellation of BATCO's certificates of title prior to full payment of the compensation and prior to the decision on the petition for exemption as violative of BATCO's right to procedural and substantive due process.⁷³ Corollarily, the CA cancelled TCT Nos. T-1012, T-1013 and T-1014 in the name of MCFARMCO and directed the Basilan RD to issue a new set of titles in BATCO's favor.⁷⁴

The Issue Before the Court

The essential issue in this case is whether or not the CA gravely abused its discretion in excluding/exempting the subject lands from CARP coverage despite BATCO's admission that only a portion thereof was devoted to livestock raising and considering its previous voluntary offer of the lands to the government under the VOS scheme.

The Court's Ruling

The petition is meritorious.

Under RA 6657, the CARP shall cover all public and private agricultural lands, including other lands of the public domain suitable for

⁶⁷ Id. at 27-28.

⁶⁸ Id. at 28-29.

⁶⁹ CA *rollo*, p. 218.

⁷⁰ Id. at 205-212.

⁷¹ Id. at 213-215.

⁷² Id. at 221. Mayor Inocente J. Ramos, on the other hand, merely certified as to the number of cattle owned by BATCO as of January 6, 2003.

⁷³ *Rollo*, p. 33.

⁷⁴ Id. at 36.

agriculture, regardless of tenorial arrangement and commodity produced.⁷⁵ Section 3(c) thereof defines “agricultural land” as land devoted to agricultural activity and not classified as mineral, forest, residential, commercial or industrial land. Lands devoted to livestock, poultry, and swine raising are classified as industrial, not agricultural lands and, thus, exempt from agrarian reform. As such, the DAR has no power to regulate livestock farms.⁷⁶

Nevertheless, the determination of the land’s classification as either an agricultural or industrial land – and, in turn, whether or not the land falls under agrarian reform exemption – must be preliminarily threshed out before the DAR, particularly, before the DAR Secretary. Verily, issues of exclusion or exemption partake the nature of Agrarian Law Implementation (ALI) cases which are well within the competence and jurisdiction of the DAR Secretary.⁷⁷ Towards this end, the latter is ordained to exercise his legal mandate of excluding or exempting a property from CARP coverage based on the factual circumstances of each case and in accordance with the law and applicable jurisprudence.⁷⁸ Thus, considering too his technical expertise on the matter, courts cannot simply brush aside his pronouncements regarding the status of the land in dispute, *i.e.*, as to whether or not it falls under CARP coverage. As held in *DAR v. Oroville Development Corp.*:⁷⁹

We cannot simply brush aside the DAR’s pronouncements regarding the status of the subject property as not exempt from CARP coverage considering that the DAR has unquestionable technical expertise on these matters. Factual findings of administrative agencies are generally accorded respect and even finality by this Court, if such findings are supported by substantial evidence, a situation that obtains in this case. **The factual findings of the Secretary of Agrarian Reform who, by reason of his official position, has acquired expertise in specific matters within his jurisdiction, deserve full respect and, without justifiable reason, ought not to be altered, modified or reversed.** (Emphases supplied)

⁷⁵ Section 4 of RA 6657 provides:

SEC. 4. *Scope.* – The Comprehensive Agrarian Reform Law of 1988 shall cover, regardless of tenorial arrangement and commodity produced, all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture.

More specifically, the following lands are covered by the Comprehensive Agrarian Reform Program:

(a) All alienable and disposable lands of the public domain devoted to or suitable for agriculture. No reclassification of forest or mineral lands to agricultural lands shall be undertaken after the approval of this Act until Congress, taking into account ecological, developmental and equity considerations, shall have determined by law, the specific limits of the public domain;

(b) All lands of the public domain in excess of the specific limits as determined by Congress in the preceding paragraph;

(c) All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.

⁷⁶ *DAR v. Sutton*, G.R. No. 162070, October 19, 2005, 473 SCRA 392, 400.

⁷⁷ *Milestone Farms, Inc. v. Office of the President*, G.R. No. 182332, February 23, 2011, 644 SCRA 217, 239.

⁷⁸ *Id.* at 240.

⁷⁹ 548 Phil. 51, 58 (2007).

It is settled that in order to be entitled to exclusion/exemption, it must be shown that the land is exclusively devoted to livestock, swine or poultry raising.⁸⁰ The land must be shown to have been used for such purposes as of the effectivity of RA 6657, or on June 15, 1988,⁸¹ in order to prevent any fraudulent declaration of areas supposedly used for these purposes as well as to protect the rights of agrarian beneficiaries therein. This is in consonance with Section 73(c) of RA 6657 which prohibits the conversion by any landowner of his agricultural land into any non-agricultural use with intent to avoid the application of RA 6657 to his landholdings and to dispossess his tenant farmers of the land tilled by them.

A thorough review of the records reveals no substantial evidence to show that the entirety of the subject lands were exclusively devoted to livestock production since June 15, 1988 so as to warrant their exclusion/exemption from CARP coverage and the consequent cancellation of MCFARMCO's certificates of title. In fact, contrary to its original submission that almost all of the entire 206.5694 has. landholding has been devoted to cattle and livestock production since their acquisition in 1987,⁸² BATCO subsequently admitted in its Supplemental Motion for Reconsideration of the Order dated 25 February 1999⁸³ (supplemental motion for reconsideration) that only a portion of the subject lands was actually devoted to livestock raising, for which the exemption of not less than 100 has. was sought.⁸⁴ On this score alone, the CA gravely abused its discretion in declaring the subject lands as exempt from CARP coverage and ordering the cancellation of MCFARMCO's certificates of title and the issuance of new titles in BATCO's favor.

It must be further pointed out that the subject lands were offered by BATCO to the government under the VOS scheme on September 20, 1989,⁸⁵ which offer was reiterated on January 6, 1993⁸⁶ without any claim of exemption, notwithstanding the existence of the *Luz Farms* ruling (which was promulgated on December 4, 1990). In fact, the subject portion was acquired by the government in 1992 and still BATCO never sought exemption under *Luz Farms*. While it protested the valuation of the DAR⁸⁷ during its VOS, it did not, at that time, seek any exemption from CARP coverage. BATCO only raised the claimed exemption when it filed the petition for exemption before the DAR Regional Director on May 6, 1998. However, the petition was filed on the basis of DAR AO 09-93,⁸⁸ and accordingly denied by the DAR Regional Director⁸⁹ and the DAR

⁸⁰ See *DAR v. Sutton*, supra note 76, at 399.

⁸¹ See *Junio v. Garilao*, G.R. No. 147146, July 29, 2005, 465 SCRA 173.

⁸² *Rollo*, p. 52.

⁸³ *Id.* at 77-82.

⁸⁴ *Id.* at 81.

⁸⁵ *Id.* at 38.

⁸⁶ *Id.* at 41-42.

⁸⁷ *Id.* at 47-50. See Order dated December 3, 1997.

⁸⁸ *Id.* at 52-53.

⁸⁹ *Id.* at 54-58. See Order dated August 12, 1998.

Secretary⁹⁰ for failing to meet the requirements set forth therein. While the Court struck down DAR AO 09-93 as unconstitutional in the case of *DAR v. Sutton*⁹¹ (*Sutton*) on October 19, 2005, the DAR Decisions and even the CA Decision dated September 6, 2005 in CA-G.R. SP No. 55377 were all rendered at the time that the said AO was still subsisting and in full force and effect. Consequently, in view of the prospectivity principle of judicial decisions⁹² and the operative fact doctrine,⁹³ the petition for exemption must be resolved under the provisions of the said AO.

Under DAR AO 09-93, in order to be entitled to exemption, the applicant must prove that: (a) the land sought to be excluded from CARP coverage is exclusively, directly and actually used for livestock, poultry and swine raising as of June 15, 1988; (b) there should be one head of cattle per hectare of land and seven heads of goat per hectare of land; and (c) there should be 21 heads of cattle for every 1.7815 has. of infrastructure, 147 heads of goat or sheep for every 0.7205 hectare of infrastructure, and 21 heads of swine for every 0.5126 hectare of infrastructure. Consistent with the prohibition under Section 73(c) of RA 6657, DAR AO 09-93 likewise provided that “[a]ny act of a landowner to change or convert his agricultural land to livestock, poultry and swine raising after [June 15, 1988], with the intent to avoid the application of [RA 6657] to his landholdings, shall be considered invalid and illegal and shall not affect the coverage of his landholding under CARP.”

It bears noting that the denial of the petition for exemption by the DAR Regional Director was based on an ocular inspection/investigation conducted by the DAR provincial personnel in Basilan.⁹⁴ The rationale for the denial of the petition was also clearly outlined in the February 25, 1999 Order⁹⁵ of the DAR Secretary who observed that: (a) none of the 156 certificates of livestock ownership submitted by BATCO predates the effectivity of RA 6657;⁹⁶ (b) more than half (80 out of 156)⁹⁷ of the cattle was brought into the property only a few months before the petition was filed; (c) the municipal agriculturist certified the presence of only 120 heads of cattle,⁹⁸ which is short of the minimum requirement under DAR AO 09-93;⁹⁹ and (d) no evidence was presented to prove the presence of hogs and goats as well as of BATCO having met the infrastructure requirements under DAR AO 09-93.¹⁰⁰ There being no cogent reason to deviate from the foregoing, the Court is impelled to sustain the DAR Secretary’s findings.

⁹⁰ Id. at 69-73 (Order dated February 25, 1999) and id. at 83-90 (Order dated August 31, 1999).

⁹¹ Supra note 76.

⁹² See *Co v. CA*, G.R. No. 100776, October 28, 1993, 227 SCRA 444.

⁹³ See *Chavez v. Judicial and Bar Council*, G.R. No. 202242, July 17, 2012, 676 SCRA 579.

⁹⁴ *Rollo*, p. 57.

⁹⁵ *CA rollo*, pp. 11-15.

⁹⁶ *Rollo*, p. 70.

⁹⁷ Id. See also footnote 45.

⁹⁸ *CA rollo*, p. 218.

⁹⁹ *Rollo*, p. 71.

¹⁰⁰ Id.

To note, in denying BATCO's motion for reconsideration, the DAR Secretary also observed that, contrary to BATCO's claim that the additional certificates of livestock ownership it undertook to produce further were in the name of the Mendoza Plantation from which it purchased the subject lands in 1987, the certificates eventually submitted with its supplemental motion for reconsideration were actually under its name. Accordingly, the DAR Secretary cannot be faulted for not giving credence to the same.

In fact, even if the Court were to apply *Sutton* retroactively and disregard DAR AO 09-93, the pieces of evidence relied upon by the CA actually failed to establish the theory that the entirety of the subject lands or specific portions thereof are exclusively devoted to the raising of cattle, swine and goat as of June 15, 1988. The Court notes that the Municipal Agriculturist Certification¹⁰¹ dated March 26, 1998, which the CA appreciated in favor of BATCO, merely stated that the subject lands are “suitable for cattle production since before it was acquired and transferred to BATCO PLANTATION.”¹⁰² On the other hand, the Affidavits¹⁰³ of former municipal mayors confirming their issuance of several certificates of livestock ownership during their respective terms were only presented before the CA and were not backed up by copies of the certificates themselves. Moreover, while the former municipal mayors attested to the existence and presence of livestock in the subject lands starting the year 1987, they commonly described the subject lands as a vast tract of land principally devoted to coconut production, which was extensively inter-cropped with coffee, rubber, black pepper, and cacao trees after BATCO's acquisition.¹⁰⁴ These descriptions are insufficient to establish BATCO's claimed exemption as what is required is exclusive devotion of the lands to the raising of cattle, swine and goat as of June 15, 1988.

More pertinently, the Court further notes that contrary to BATCO's representations in its petition for exemption, the primary land use of the subject lands¹⁰⁵ as declared by BATCO itself in its landowner's reply to notice of land valuation and acquisition¹⁰⁶ (landowners reply) dated May 6, 1997, negates its own claim that the said lands were exclusively devoted for the raising of cattle, swine and goat, viz.:

Lot	Land Use	Area Acq'd
3	Cocoland	8.9917
	Cocoland/Coffee	<u>10.0000</u>
	Sub-total	<u>18.9917</u>
4	Cocoland	44.4733

¹⁰¹ CA *rollo*, p. 218.
¹⁰² Id.
¹⁰³ Id. at 213-217.
¹⁰⁴ Id.
¹⁰⁵ Namely, Lot Nos. 3, 4, and 5 of TCT Nos. T-7454, T-7455, and T-7456.
¹⁰⁶ *Rollo*, p. 45.

	Coco/Coffee	8.0000
	Coco/Rubber	1.5000
	Coco/Black Pepper	1.5000
	Coco/Black Pepper/ Rubber	<u>1.5000</u>
	Sub-total	<u>56.9733</u>
5	Cocoland	10.0000
	Cocoland/Coffee	<u>67.9151</u>
	Sub-total	<u>77.9151</u>
	GRAND TOTAL	<u>153.8801</u> ¹⁰⁷

In this accord, the Court finds that BATCO's claim of a different land use in its petition for exemption was only a mere afterthought which, therefore, cannot be countenanced.


Finally, the Court cannot give credence to BATCO's claim of denial of due process when its certificates of title were cancelled and new ones were issued in favor of the Republic prior to the issuance of the DAR Regional Director's August 12, 1998 Order. While the final resolution of petitions for exemption, as a rule, should precede the placing of the property under the CARP and the issuance of the CLOA to the beneficiaries,¹⁰⁸ it bears stressing that the subject lands had already been placed under the CARP coverage in 1992, or long before the petition for exemption was filed by BATCO on May 6, 1998. In the meantime, the actions undertaken by BATCO such as the VOS on January 6, 1993,¹⁰⁹ the counter-offer of valuation for the subject lands according to their declared land uses as contained in the aforementioned landowner's reply¹¹⁰ dated May 6, 1997, the letter-protest dated May 23, 1997 (which challenged the survey of the lands), and the identification of the beneficiaries grounded on its alleged failure to choose the retention area,¹¹¹ all affirmed the coverage of the subject lands under the CARP. Considering further that the claim of denial of due process was never raised in the proceedings before the DAR but belatedly brought up only in its Memorandum¹¹² dated July 28, 2005 filed before the CA¹¹³ and in the absence of showing that the same prevented it from presenting its case before the DAR officials, it cannot be said that BATCO was denied due process. Neither was it deprived of its properties without just compensation given that after it rejected the DAR's valuation on May 6, 1997, the DAR immediately caused the deposit of the compensation in cash and in agrarian reform bonds on June 11, 1997.¹¹⁴ All told, the denial of BATCO's petition for exemption was proper. In view of its contrary ruling, and the absence of

¹⁰⁷ Id.
¹⁰⁸ See *DAR v. Estate of Pureza Herrera*, G.R. No. 149837, July 8, 2005, 463 SCRA 107, 123-124.
¹⁰⁹ *Rollo*, pp. 41-42.
¹¹⁰ Id. at 45.
¹¹¹ Id. at 47.
¹¹² *CA rollo*, pp. 166-188.
¹¹³ It was not even raised in BATCO's petition for review before the CA. See id. at 25-35.
¹¹⁴ *Rollo*, p. 46.

any substantial bases therefor, the Court finds that the CA gravely abused its discretion in reversing the DAR Secretary's February 25, 1999 Order.

WHEREFORE, the petition is **GRANTED**. The Decision dated September 6, 2005 of the Court of Appeals in CA-G.R. SP No. 55377 is hereby **REVERSED AND SET ASIDE** and a new judgment is rendered **REINSTATING** the Order dated February 25, 1999 of the Department of Agrarian Reform Secretary dismissing private respondent Basilan Agricultural Trading Corporation's petition for exemption.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL BEREZ
Associate Justice

ATTESTATION

I attest 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.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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