Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

RODULFO VALCURZA and BEATRIZ LASAGA, SPOUSES RONALDO GADIAN & JULIETA TAGALOG, SPOUSES ALLAN VALCURZA and GINA LABADO, SPOUSES ROLDAN JUMAWAN and RUBY VALCURZA, SPOUSES EMPERATREZ VALCURZA and ENRIQUE VALCURZA, CIRILA PANTUHAN, SPOUSES DANIEL VALCURZA and JOVETA RODELA, SPOUSES LORETO NAELGA and REMEDIOS DAROY, SPOUSES VERGILIO VALCURZA and ROSARIO SINELLO, SPOUSES PATRICIO EBANIT and OTHELIA CABANDAY, SPOUSES ABNER MEDIO and MIRIAM TAGALOG, SPOUSES CARMEN MAGTRAYO and MEDIO MAGTRAYO, SPOUSES MARIO VALCURZA and EDITHA MARBA, SPOUSES ADELARDO VALCURZA and PRISCILLA LAGUE, SPOUSES VICTOR VALCURZA and MERUBELLA BEHAG, and SPOUSES HENRY MEDIO and ROSALINDA ALOLHA,
Petitioners,

- versus -

ATTY. CASIMIRO N. TAMPARONG, JR.,
Respondent.

G.R. No. 189874

Present:

SERENO, *CJ*, Chairperson,
BERSAMIN, [*]
VILLARAMA, JR., and
REYES,
PERLAS-BERNABE,[**] *JJ.*

Promulgated:

SEP 04 2013

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[*] Acting Working Chairperson in lieu of Associate Justice Teresita J. Leonardo- De Castro per Special Order No. 1533 dated 29 August 2013.

[**] Designated additional member in lieu of Associate Justice Teresita J. Leonardo-De Castro per Special Order No. 1529 dated 29 August 2013.

D E C I S I O N

SERENO, *CJ*:

Before us is a Petition for Review on Certiorari[1] of the Decision[2] dated 24 September 2009 issued by the Court of Appeals (CA) in CA-G.R. SP No. 01244-MIN. The CA reversed and set aside the Decision[3] dated 26 April 2005 of the Department of Agrarian Reform and Adjudication Board (DARAB) and reinstated the Decision[4] dated 2 January 2002 of the Provincial Agrarian Reform and Adjudication Board (PARAB).

Casimiro N. Tamparong, Jr. (respondent) is the registered owner of a landholding with an area of 412,004 square meters[5] and covered by Original Certificate of Title (OCT) No. 0-363[6] pursuant to a judicial decree rendered on 24 June 1962.[7] The *Sangguniang Bayan* of Villanueva, Misamis Oriental allegedly passed a Comprehensive Zoning Ordinance − Resolution No. 51-98, Series of 1982 − classifying respondent's land from agricultural to industrial.[8]

A Notice of Coverage was issued by the Department of Agrarian Reform (DAR) on 3 November 1992 over 276,411 square meters out of the 412,004 square meters of respondent's land. The 276,411 square meters of land were collectively designated as Lot No. 1100.[9] The DAR Secretary eventually issued Certificate of Land Ownership Award (CLOA) No. 00102751 over the land in favor of Rodulfo Valcurza, Beatriz Lasaga, Ronaldo Gandian, Julieta Tagalog, Allan Valcurza, Gina Labado, Roldan Jumawan, Ruby Valcurza, Emperatrez Valcurza, Enrique Valcurza, Cirila Pantuhan, Daniel Valcurza, Joveta Rodela, Loreto Naelga, Remedios Daroy, Vergilio Valcurza, Rosario Sinello, Patricio Ebanit, Othelia Cabanday, Abner Medio, Miriam Tagalog, Carmen Magtrayo, Medio Magtrayo, Mario Valcurza, Editha Marba, Adelardo Valcurza, Priscilla Lague, Victor Valcurza, Merubella Behag, Henry Medio, and Rosalinda Alolha (petitioners).[10] As a result, OCT No. E-4640 was issued in favor of petitioners on 30 May 1994.[11]

Respondent filed a protest against the Comprehensive Agrarian Reform Program (CARP) coverage on the ground that his land was industrial, being found within the industrial estate of PHIVIDEC per Zoning

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[1] *Rollo*, pp. 11-43.
[2] Id. at 107-129.
[3] Id. at 94-105.
[4] Id. at 69-90.
[5] Id. at 109 (CA Decision); 95 (DARAB Decision); 80 (PARAB Decision).
[6] Id. at 109 (CA Decision); 96 (DARAB Decision).
[7] Id. at 96 (DARAB Decision).
[8] Id. at 109 (CA Decision); 96 (DARAB Decision); 81 (PARAB Decision).
[9] CA *rollo*, p. 265.
[10] *Rollo*, p. 109 (CA Decision); 96 (DARAB Decision); pp. 69, 81 (PARAB Decision).
[11] Id. at 109.

Ordinance No. 123, Series of 1997.[12] His protest was resolved in a Resolution[13] issued by Regional Director Benjamin R. de Vera on 9 October 2000. The Resolution denied respondent's protest because Zoning Ordinance No. 123, Series of 1997, never unequivocally stated that all the landholdings within the PHIVIDEC area had been classified as industrial. Furthermore, the Municipal Planning and Development Council of Villanueva, Misamis Oriental, issued a letter to the Municipal Agrarian Reform Office (MARO) stating that Lot No. 1100 was classified as agricultural per Municipal Ordinance No. 51-98, Series of 1982. Also, PHIVIDEC certified that the same lot is located outside the PHIVIDEC Industrial Estate.[14]

Aggrieved, respondent filed a Complaint for Annulment of Certificate of Land Ownership Award No. 00102751 and Cancellation of OCT No. E-4640 with Prayer for the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order.[15] In the Complaint filed with the Provincial Adjudication Reform and Adjudication Board (PARAB) of Misamis Oriental on 6 July 2001, he questioned the issuance of the CLOA on the ground that his land had long been classified by the municipality as industrial. It was also covered by Presidential Proclamation No. 1962, being adjacent to the PHIVIDEC Industrial Estate, and was thus exempted from CARP coverage.[16]

The PARAB declared that Comprehensive Zoning Ordinance No. 51-98, Series of 1982 had reclassified Lot No. 2252 from agricultural to industrial land prior to the effectivity of the Comprehensive Agrarian Reform Law. It held that the complaint was not a protest or an application for exemption, but also for annulment and cancellation of title over which DARAB had jurisdiction. As the PARAB exercised delegated authority from the DARAB, it was but proper for the former to rule on the complaint.[17] In the exercise of this jurisdiction, the PARAB found the CARP coverage irregular and anomalous because the issuance of the CLOA, as well as its registration with the Register of Deeds, happened before the survey plan was approved by the DENR.[18] The dispositive portion of the Decision is as follows:

> WHEREFORE, premises considered, Decision is hereby rendered in favor of the plaintiff Casimiro N. Tamparong, Jr. and against the defendants ordering as follows:
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> 1. The immediate annulment and cancellation of CLOA No. 00102751 and OCT No. E-4640, and all other derivative titles that may

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[12] Id. at 266.
[13] CA *rollo*, pp. 266-267.
[14] Id.
[15] Id. at 180-188.
[16] *Rollo*, p. 49.
[17] Id. at 87.
[18] Id. at 81.

> have been issued pursuant to, in connection with, and by reason of the fraudulent and perjured coverage of the disputed land by the DAR;
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> 2. The cancellation of Subdivision Plan Bsd-10-002693 (AR); and
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> 3. The ejectment of the sixteen (16) private-defendants farmer beneficiaries led by Sps. Rodulfo Valcurza, et al. from the disputed landholding and to surrender their possession thereof to the plaintiff.[19]

On appeal, the DARAB held that the identification of lands that are subject to CARP and the declaration of exemption therefrom are within the exclusive jurisdiction of the DAR Secretary. As the grounds relied upon by petitioners in their complaint partook of a protest against the coverage of the subject landholding from CARP and/or exemption therefrom, the DARAB concluded that the DAR Secretary had exclusive jurisdiction over the matter.[20] Hence, the DARAB reversed the PARAB, maintained the validity of the CLOA, and dismissed the complaint for lack of merit.[21]

Dissatisfied, respondent filed a Petition for Review under Rule 43 with the CA, which ruled that the annulment of duly registered CLOAs with the Land Registration Authority falls within the exclusive jurisdiction of the DARAB and not of the regional director. Furthermore, the subject landholding was considered industrial because of a zoning classification issued by the Municipal Council of Villanueva, Misamis Oriental, prior to 15 June 1988. This ruling is consistent with the power of local governments to reclassify lands through a local ordinance, which is not subject to DAR's approval.[22]

Thus, this Petition.

Petitioners claim that respondent's complaint before the PARAB concerns the DAR's implementation of the agrarian law and implementation of CLOA as an incident thereof.[23] The PARAB had no jurisdiction, because matters strictly involving the administrative implementation of the CARL and other agrarian laws are the exclusive prerogative of and are cognizable by the DAR Secretary.[24] Yet, supposing that PARAB had jurisdiction, its authority to cancel CLOAs is based on the ground that the land was found to be exempted or excluded from CARP coverage by the DAR Secretary or the latter's authorized representatives, which is not the case here.[25] The subject landholding has also been declared as agricultural by various government agencies as evidenced by the Department of Environment and Natural Resources-City Environment and Natural Resources Office Certification declaring the land to be alienable and disposable and not covered by any public land application; by the PHIVIDEC Industrial Authority Certification

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[19] Id. at 90.
[20] Id. at 102-104.
[21] Id. at 104.
[22] Id. at 124-125.
[23] Id. at 24.
[24] Id. at 25.
[25] Id. at 29-30.

that the land is outside the industrial area of PHIVIDEC; and by the letter of the Deputized Zoning Administrator of Villanueva, Misamis Oriental, saying that the land is classified as agricultural.[26] Moreover, the Resolution and Zoning Ordinance reclassifying the land from agricultural to industrial was not shown to have been approved by the Housing and Land Use Regulatory Board (HLURB) or cleared by the DAR as required by DAR Administrative Order No. 1, Series of 1990.[27]

In a Resolution dated 11 January 2010, we required respondent to comment, which he did.[28] Upon noting his Comment, we asked petitioners to file their reply, and they complied.[29]

The determination of issues brought by petitioners before this Court revolves around the sole question of whether the DARAB has jurisdiction over the subject matter of the case.

We rule in the negative.

The jurisdiction of a court or tribunal over the nature and subject matter of an action is conferred by law.[30] The court or tribunal must look at the material allegations in the complaint, the issues or questions that are the subject of the controversy, and the character of the relief prayed for in order to determine whether the nature and subject matter of the complaint is within its jurisdiction.[31] If the issues between the parties are intertwined with the resolution of an issue within the exclusive jurisdiction of a court or tribunal, the dispute must be addressed and resolved by the said court or tribunal.[32]

Section 50 of Executive Order (E.O.) No. 229 vests the DAR with quasi-judicial powers to determine and adjudicate agrarian reform matters, as well as with exclusive original jurisdiction over all matters involving the implementation of agrarian reform. The jurisdiction of the DAR over the adjudication of agrarian reform cases was later on delegated to the DARAB,[33] while the former's jurisdiction over agrarian reform implementation was assigned to its regional offices. [34]

The DARAB's New Rules of Procedure issued in 1994, which were in force at the time of the filing of the complaint, provide, in pertinent part:

> 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

[26] Id. at 32-34.
[27] Id. at 34-35.
[28] Id. at 140-141, 145-171 (Comment).
[29] Id. at 237-238 (Resolution dated 5 April 2010), 241-246 (Reply).
[30] *Heirs of Dela Cruz v. Heirs of Cruz*, 512 Phil. 389, 400 (2005).
[31] Id.
[32] *Soriano v. Bravo*, G.R. No. 152086, 15 December 2010, 638 SCRA 403,422.
[33] E.O. No. 129-A (1987), Sec. 13.
[34] E.O. No. 129-A (1987), Sec. 24.

> 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:
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> 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. (Emphases supplied)

Section 3(d) of Republic Act (R.A.) No. 6657 defines an agrarian dispute as

> x x x 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.
>
> It 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. (Emphasis supplied)

A tenurial arrangement exists when the following are established:

> 1) The parties are the landowner and the tenant or agricultural lessees;
> 2) The subject matter of the relationship is an agricultural land;
> 3) There is consent between the parties to the relationship;
> 4) The purpose of the agricultural relationship is to bring about agricultural production;
> 5) There is personal cultivation on the part of the tenant or agricultural lessees; and
> 6) The harvest is shared between the landowner and the tenant or agricultural lessee.[35]

Thus, the DARAB has jurisdiction over cases involving the cancellation of registered CLOAs relating to an agrarian dispute between landowners and tenants. However, in cases concerning the cancellation of CLOAs that involve parties who are not agricultural tenants or lessees – cases related to the administrative implementation of agrarian reform laws, rules and regulations − the jurisdiction is with the DAR, and not the DARAB.[36]

Here, petitioner is correct in alleging that it is the DAR and not the DARAB that has jurisdiction. First, the issue of whether the CLOA issued

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[35] *Sutton v. Lim*, G.R. No. 191660, 3 December 2012, 686 SCRA 745, 755.
[36] Supra note 32.

to petitioners over respondent's land should be cancelled hinges on that of whether the subject landholding is exempt from CARP coverage by virtue of two zoning ordinances. This question involves the DAR's determination of whether the subject land is indeed exempt from CARP coverage – a matter involving the administrative implementation of the CARP Law. Second, respondent's complaint does not allege that the prayer for the cancellation of the CLOA was in connection with an agrarian dispute. The complaint is centered on the fraudulent acts of the MARO, PARO, and the regional director that led to the issuance of the CLOA.[37]

Also, the elements showing that a tenurial relationship existed between respondent and petitioners were never alleged, much less proven. In reality, respondent only mentioned petitioners twice in his complaint. Although he admitted that they occupied his land, he did not specify the nature of his relationship with them. He only said that their stay on his land was based on mere tolerance.[38] Furthermore, the only other instance when respondent mentioned petitioners in his complaint was when they informed him that he could no longer harvest the fruits of the land, because they were already the owners thereof. He never stated the circumstances that would have shown that the harvest of the fruits was in relation to a tenurial arrangement.[39]

Nevertheless, assuming *arguendo* that the DARAB had jurisdiction, the CA was mistaken in upholding the PARAB's Decision that the land is industrial based on a zoning ordinance, without a prior finding on whether the ordinance had been approved by the HLURB. We ruled in *Heirs of Luna v. Afable* as follows:[40]

> The meaning of "agricultural lands" covered by the CARL was explained further by the DAR in its AO No. 1, Series of 1990, dated 22 March 1990, entitled "Revised Rules and Regulations Governing Conversion of Private Agricultural Land to Non-Agricultural Uses," issued pursuant to Section 49 of the CARL. Thus:
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> > Agricultural land refers to those devoted to agricultural activity as defined in RA 6657 and not classified as mineral or forest by the Department of Environment and Natural Resources (DENR) and its predecessor agencies, and not classified in town plans and zoning ordinances as approved by the Housing and Land Use Regulatory Board (HLURB) and its preceding competent authorities prior to 15 June 1988 for residential, commercial or industrial use. (Emphasis omitted)
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> It is clear from the last clause of the afore-quoted provision that a land is not agricultural, and therefore, outside the ambit of the CARP if the following conditions concur:

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[37] *Rollo*, pp. 47-49.
[38] Id. at 47-48.
[39] Id. at 48.
[40] G.R. No. 188299, 23 January 2013, 689 SCRA 207, 225-227.

> **1. the land has been classified in town plans and zoning ordinances as residential, commercial or industrial; and**
>
> **2. the town plan and zoning ordinance embodying the land classification has been approved by the HLURB or its predecessor agency prior to 15 June 1988.**
>
> It is undeniable that local governments have the power to reclassify agricultural into non-agricultural lands. Section 3 of RA No. 2264 (The Local Autonomy Act of 1959) specifically empowers municipal and/or city councils to adopt zoning and subdivision ordinances or regulations in consultation with the National Planning Commission. By virtue of a zoning ordinance, the local legislature may arrange, prescribe, define, and apportion the land within its political jurisdiction into specific uses based not only on the present, but also on the future projection of needs. It may, therefore, be reasonably presumed that when city and municipal boards and councils approved an ordinance delineating an area or district in their cities or municipalities as residential, commercial, or industrial zone pursuant to the power granted to them under Section 3 of the Local Autonomy Act of 1959, they were, at the same time, reclassifying any agricultural lands within the zone for non-agricultural use; hence, ensuring the implementation of and compliance with their zoning ordinances.
>
> The regulation by local legislatures of land use in their respective territorial jurisdiction through zoning and reclassification is an exercise of police power. The power to establish zones for industrial, commercial and residential uses is derived from the police power itself and is exercised for the protection and benefit of the residents of a locality. Ordinance No. 21 of the *Sangguniang Bayan* of Calapan was issued pursuant to Section 3 of the Local Autonomy Act of 1959 and is, consequently, a valid exercise of police power by the local government of Calapan.
>
> The second requirement — that a zoning ordinance, in order to validly reclassify land, must have been approved by the HLURB prior to 15 June 1988 — is the result of Letter of Instructions No. 729, dated 9 August 1978. According to this issuance, local governments are required to submit their existing land use plans, zoning ordinances, enforcement systems and procedures to the Ministry of Human Settlements — one of the precursor agencies of the HLURB — for review and ratification. (Emphasis supplied)

Here, the records of the case show the absence of HLURB Certifications approving Comprehensive Zoning Ordinance Resolution No. 51-98, Series of 1982, and Zoning Ordinance No. 123, Series of 1997. Hence, it cannot be said that the land is industrial and outside the ambit of CARP.

WHEREFORE, in view of the foregoing, the Petition dated 19 November 2009 is hereby **GRANTED**. The 24 September 2009 Decision of the Court of Appeals in CA-G.R. SP No. 01244-MIN is **REVERSED** and **SET ASIDE**. The 26 April 2005 Decision of the Department of Agrarian Reform and Adjudication Board is **REINSTATED**.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

WE CONCUR:

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the 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