Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DANILO ALMERO, TERESITA ALAGON, CELIA BULASO, LUDY RAMADA, REGINA GEGREMOSA, ISIDRO LAZARTE, THELMA EMBARQUE, FELIPE LAZARTE, GUILERMA LAZARTE, DULCESIMA BENIMELE,
Petitioners,

- versus -

HEIRS OF MIGUEL PACQUING, as represented by LINDA PACQUING-FADRILAN,
Respondents.

G.R. No. 199008

Present:

CARPIO, *J., Chairperson,*
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:

NOV 19 2014

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DECISION

BRION, *J.*:

Before this Court is a petition for review on *certiorari*[1] filed under Rule 45 of the Rules of Court directly assailing the February 16, 2011 decision[2] and July 19, 2011 resolution[3] of the Office of the President (*OP*) in OP Case No. 10-C-152. The OP recalled and cancelled the Certificate of Land Ownership Awards (*CLOAs*) issued to the petitioners covering certain homestead lots that formed part of the *Pacquing Estate*, a 23.6272-hectare property located in Cuambogan, Tagum City.

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1 Dated November 11, 2011; *rollo,* pp. 35-49.
2 Id. at 51-55.
3 Id. at 68-69.

Factual Antecedents

Miguel Pacquing acquired agricultural lands (*the property*) with a total area of 23.6272 hectares in Cuambogan, Tagum City through Homestead Patent No. V-33775. These lands were registered on January 6, 1955 with the Register of Deeds under Original Certificate of Title No. (P-2590) P-653.

The records show that, on August 5, 1991, the Municipal Agrarian Reform Officer (*MARO*) sent Miguel's representative a Notice of Coverage placing the Pacquing Estate under the Comprehensive Agrarian Reform Program (*CARP*). Miguel failed to reply to the notice and, instead filed a Voluntary Offer to Sell (*VOS*) with the Department of Agrarian Reform (*DAR*) on August 31, 1991. Miguel, however, died during the pendency of the VOS proceedings. Miguel's wife, Salome, had died five years earlier.

In January 1992, respondent Linda Pacquing-Fadrilan, sole heir of the spouses Pacquing, executed an affidavit adjudicating to herself ownership of the property. In August of the same year, she filed an application for retention with the DAR Regional Director who denied Linda's application in an order dated December 14, 1993. The order denying Linda's application for retention later became final and executory.

On June 25, 1994, certain individuals, including the present petitioners who were earlier identified as farmer-beneficiaries of the subject land, were issued CLOAs over their respective cultivated portions of the property.

On October 20, 1999, Linda, through her attorney-in-fact, Samuel Osias, filed with the Office of the Provincial Adjudicator in Tagum City a petition to cancel the petitioners' CLOAs. The Provincial Adjudicator later dismissed the petition due to Linda's failure to file her position paper. She appealed the dismissal with the Department of Agrarian Reform Adjudication Board (*DARAB*).

It appears that, in the meantime, Transfer Certificates of Title (*TCTs*) covering portions of the property were issued to Napoleon Villa Sr., *et al.* who had been contracted by Linda, under an agricultural leasehold agreement, to cultivate the lands.

In a resolution dated June 29, 2001, the DARAB nullified the TCTs issued to Napoleon Villa Sr. *et.al.* and reinstated Linda's title to the property. **At the same time, the DARAB ordered the generation and issuance of titles to the petitioners and other farmer-beneficiaries of the subject land**. In a subsequent resolution dated September 28, 2001, the DARAB validated the TCTs issued to the following individuals: Danilo Almero, Celia Bulaso, Ludy Ramada, Isidro Lazarte, Cepriano Lazarte,

Thelma Emorque, Domingo Juanico, Candido Labeste and Renato Benimate.

Root of the present petition: Petition to Recall and Cancel the petitioners' CLOAs

Linda again sought to recall and cancel the petitioners' CLOAs by filing a petition with the DAR, which the latter endorsed to the DAR Regional Office. Linda argued that the DARAB erred in distributing portions of the land to the petitioners because the entire property was supposed to be exempt from CARP coverage. The petitioners opposed Linda's petition.

In an order dated December 18, 2008, the DAR Regional Director ruled that the Pacquing Estate was subject to CARP and that the CLOAs issued to the petitioners were valid. Linda filed an appeal to the DAR Secretary.

In an order dated August 18, 2009, former DAR Secretary Nasser C. Pangandaman denied Linda's appeal under the following terms:

> "xxx, under Section 6 of R.A. No. 6657, there are two requisites to exempt homestead lands from CARP coverage. First, the homestead grantee or his direct compulsory heir(s) still own the original homestead at the time of the effectivity of R.A. No. 6657 on 15 June 1988; and second, the original homestead grantee or his direct compulsory heir(s) was cultivating the homestead as of 15 June 1988 and continues to cultivate the same.
>
> **In this case, it is undisputed that the subject landholdings were still owned by the original homestead grantees at the time of the effectivity of R.A. No. 6657. However, the said homestead grantees no longer cultivate the same. Therefore, on this score, the subject landholdings cannot be exempted from CARP coverage.**" (*Emphasis ours*)

Linda appealed the DAR Secretary's August 18, 2009 order to the OP.

In a decision dated February 16, 2011, the OP, through Executive Secretary Paquito N. Ochoa Jr., reversed the DAR Secretary's August 18, 2009 Order and recalled and cancelled the petitioners' CLOAs. The OP held that:

> "xxx, the fact that petitioners-appellants (*referring to the respondent Linda*), since the beginning, have always protested the issuance of the CLOAs to the respondents-appellees (*referring to the petitioners*) is a clear demonstration of their willingness to continue with the cultivation of the subject landholdings, or to start anew with the cultivation or even to direct the management of the farm.

> Given the foregoing, petitioners-appellants should be given the chance to exercise their rights as heirs of the homestead grantee to continue to cultivate the homestead lots either personally or directly managing the farm pursuant to the pronouncement in the *Paris* case. They still own the original homestead issued to their predecessor-in-interest and **have manifested their intention to continue with the cultivation of the homestead lots**."[4] (*Emphasis supplied*)

The petitioners moved to reconsider the decision, but the OP denied their motion in a resolution[5] dated July 19, 2011.

With no appeal or petition for review filed with the *Court of Appeals* within the fifteen (15) - day appeal period, **the DAR Bureau of Agrarian Legal Assistance issued on August 22, 2011 a Certificate of Finality[6] declaring as final and executory the OP's February 16, 2011 decision and July 19, 2011 resolution.** The petitioners, however, contest the finality of the OP's decision and allege that their counsel only received a *certified* copy of the OP's resolution denying their motion for reconsideration on September 29, 2011.

On November 14, 2011, the petitioners directly filed with this Court a petition for review on *certiorari* under Rule 45 assailing the subject OP's decision and resolution.

The Petition

The petitioners raise the following issues:

> I- WHO WILL ISSUE A CERTIFICATE OF FINALITY OF THE DECISION WHEN THE DECISION OF THE ADMINISTRATIVE AGENCY IS REVERSE (sic) ON APPEAL BY THE OFFICE OF THE PRESIDENT?
>
> **II- ARE LANDS UNDER THE HOMESTEAD GRANT, EXEMPT FROM AGRARIAN REFORM COVERAGE UNDER SECTION 6 OF R.A. 6657, EVEN IF THE HEIR OF THE PATENTEE IS NOT CULTIVATING THE LAND, BUT AND HAD EVEN OFFERED THE SAME UNDER THE VOLUNTARY OFFER TO SELL SCHEME?**
>
> III- IN CARP COVERAGE, IS DEPOSIT OF LANDOWNER'S COMPENSATION WITH LAND BANK OF THE PHILIPPINES ENOUGH TO TRANSFER TITLE TO THE STATE, EVEN IF THE OWNER DOES NOT ACCEPT THE SAME?[7] (*Emphasis supplied*)

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4 Id. at 11.
5 *Supra* note 3.
6 *Rollo*, pp. 73-74.
7 Id. at 41.

Pleadings Subsequent to the Petition

In her comment dated March 16, 2012,[8] Linda counter-argues that the present petition should be denied outright for being an improper mode of appeal: the appeal from the OP's assailed decision and resolution should have been filed with the CA *via* a petition for review under Rule 43 and not directly with this Court *via* a petition for review on *certiorari* under Rule 45.

The petitioners filed their counter-comment/reply[9] asking this Court to decide the present case not on technicalities but based on its merits, and that the Court, instead, treat their petition as a special civil action for c*ertiorari* under Rule 65.

OUR RULING

We see MERIT in the present petition.

First, we address the procedural issue raised by the respondent.

Under Rule 43 of the Rules of Court, an appeal from the awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency such as the Office of the President, in the exercise of its quasi-judicial functions shall be filed to the CA[10] within a period of fifteen (15) days from notice of, publication or denial of a motion for new trial or reconsideration.[11] The appeal may involve questions of fact, of law, or mixed questions of fact and law.[12]

A direct resort to this Court, however, may be allowed in cases where only questions of law are raised.[13] A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted.[14]

In the present petition, the petitioners raised valid questions of law that warranted the direct recourse to this Court. Basically, they question the OP's application of the law and jurisprudence on the issue of whether the Pacquing Estate should be exempt from CARP coverage. In this case, no further examination of the truth or falsity of the facts is required. Our review of the case is limited to the determination of whether the OP has correctly applied the law and jurisprudence based on the facts on record.

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8 Id. at 188-192.
9 Dated June 10, 2013; *Rollo*, pp. 211-213.
10 Section 1, Rule 43 of the Rules of Court.
11 Section 4, Rule 43 of the Rules of Court.
12 Section 3, Rule 43 of the Rules of Court.
13 Section 2 (c), Rule 41 of the Rules of Court.
14 *Bukidnon Doctors' Hospital, Inc. v. Metropolitan Bank & Trust Co.*, G.R. No. 161882, July 8, 2005, 463 SCRA 222, 233.

We now proceed to the merits of the case.

R.A. No. 6657 or the Comprehensive Agrarian Reform Law (*CARL*) of 1988 covers all public and private agricultural lands as provided in Proclamation No. 131[15] and E.O. No. 229,[16] including other lands of the public domain suitable for agriculture. Section 4 of R.A. 6657, as amended,[17] specifically lists the lands covered by the CARP, which include:

> (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 to the specific limits as determined by Congress in the preceding paragraph;
>
> (c) All other lands owned by the Government devoted to or suitable for agriculture; and
>
> (d) All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.

And Section 10 of R.A. 6657, as amended,[18] expressly provides for the lands exempted or excluded from the CARP, namely:

> (a) Lands actually, directly and exclusively used for parks, wildlife, forest reserves, reforestation, fish sanctuaries and breeding grounds, watersheds and mangroves shall be exempt from the coverage of this Act;
>
> (b) Private lands actually, directly and exclusively used for prawn farms and fishponds shall be exempt from the coverage of this Act: *Provided,* that said prawn farms and fishponds have not been distributed and Certificate of Land Ownership (CLOA) issued under the Agrarian Reform Program; and
>
> x x x x
>
> (c) Lands actually, directly and exclusively used and found to be necessary for national defense, school sites and campuses, including experimental farms stations operated by public or private schools for educational purposes, seeds and seedlings research and pilot production centers, church sites and covenants appurtenant thereto, mosque sites and Islamic centers appurtenant thereto, communal burial grounds and cemeteries, penal colonies and penal farms actually worked by the inmates, government and private research and quarantine centers and all lands with eighteen percent

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15 Instituting a Comprehensive Agrarian Reform Program; Approved July 22, 1987.

16 Providing the Mechanism for the Implementation of the Comprehensive Agrarian Reform Program; Approved July 22, 1987.

17 As amended by R.A. No. 9700.

18 As amended by R.A. No. 7881

> (18%) slope and over, except those already developed, shall be exempt from the coverage of this Act.

The subject land, being agricultural in nature, is clearly not exempt from CARP coverage.

But Linda argues that the subject land is exempt from CARP primarily because it was acquired by her father *via* a homestead patent. She claims that the rights of homestead grantees have been held superior to those of agrarian reform tenants and, thus, her right to the subject land must be upheld. The OP, agreeing with the respondent, stated that:

> "There can be no question that, weighed against each other, the rights of a homesteader prevail over the rights of the tenants guaranteed by agrarian reform laws.
>
> As early as the case of *Patricio v. Bayug*, it has been held that the more paramount and superior policy consideration is to uphold the right of the homesteader and his heirs to own and cultivate personally the land acquired from the State without being encumbered by tenancy relations.
>
> Just right after the promulgation of Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL), the doctrine enunciated in *Patricio* was applied in *Alita v. Court of Appeals* where it was held that Presidential Decree No. 27 cannot be invoked to defeat the very purpose of the enactment of the Public Land Act or Commonwealth Act No. 141. It was further pointed out that even the Philippine Constitution respects the superiority of the homesteaders' rights over the rights of the tenants guaranteed by the Agrarian Reform statute." [19] (*Citations omitted.*)

The right of homestead grantees to retain or keep their homestead is, however, not absolutely guaranteed by law. Section 6 of R.A 6657 provides that:

> **"Section 6. *Retention Limits*.** — Except as otherwise provided in this Act, no person may own or retain, directly or indirectly, any public or private agricultural land, the size of which shall vary according to factors governing a viable family-size farm, such as commodity produced, terrain, infrastructure, and soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder, but in no case shall retention by the landowner exceed five (5) hectares. Three (3) hectares may be awarded to each child of the landowner, subject to the following qualifications: (1) that he is at least fifteen (15) years of age; and (2) that he is actually tilling the land or directly managing the farm: provided, that landowners whose lands have been covered by Presidential Decree No. 27 shall be allowed to keep the areas originally retained by them thereunder: provided, further, **that original homestead grantees or their direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead.** (*Emphasis ours*)

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[19] *Rollo*, p. 10.

Thus, in order for the homestead grantees or their direct compulsory heirs to retain or keep their homestead, the following conditions must first be satisfied: (a) they must still be the owners of the original homestead at the time of the CARL's effectivity, and (b) they must *continue* to cultivate the homestead land.

In this case, Linda, as the direct compulsory heir of the original homestead grantee, is no longer cultivating the subject homestead land. The OP misinterpreted our ruling in *Paris v. Alfeche*[20] when it held that Linda's mere expression of her desire to continue or to start anew with the cultivation of the land would suffice to exempt the subject homestead land from the CARL. On the contrary, we specifically held in *Paris v. Alfeche* that:

> "Indisputably, homestead grantees or their direct compulsory heirs can own and retain the original homestead, only for "*as long as they continue to cultivate*" them. That parcels of land are covered by homestead patents will not automatically exempt them from the operation of land reform. **It is the fact of continued cultivation by the original grantees or their direct compulsory heirs that shall exempt their lands from land reform coverage.**"[21] (*Emphasis supplied*)

WHEREFORE, in view of the foregoing, we hereby:

(a) **REVERSE** and **SET ASIDE** the February 16, 2011 Decision and July 19, 2011 Resolution of the Office of the President in OP Case No. 10-C-152;

(b) **RECALL** and **REVOKE** the August 22, 2011 Certificate of Finality issued by the Department of Agrarian Reform Bureau of Agrarian Legal Assistance; and

(c) **AFFIRM** the August 18, 2009 Order of the Department of Agrarian Reform Secretary in DARCO Order No. MS-0908-295 Series of 2009 A-999-10-CLT-028-09.

SO ORDERED.

ARTURO D. BRION
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

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20 G.R. No. 139083, August 30, 2001, 364 SCRA 110.
21 Id. at 118.

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

See dissenting opinion

MARVIC M.V.F. LEONEN
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