Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CRISPINO PANGILINAN,
Petitioner,

- versus -

JOCELYN N. BALATBAT substituted by her heirs, namely, VICENTE BALATBAT, ANA LUCIA N. BALATBAT, JOSE VICENTE N. BALATBAT, ANTONIO BENIGNO N. BALATBAT, JOCELYN BEUNA B. DE GUZMAN, GERVACIO ALFREDO N. BALATBAT, PIO ROMULO N. BALATBAT and JUNIOPERO PEDRO N. BALATBAT,
Respondents.

G.R. No. 170787

Present:

VELASCO, JR., *J., Chairperson,*
PERALTA,
ABAD,
PEREZ,* and
MENDOZA, *JJ.*

Promulgated:

12 September 2012

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DECISION

PERALTA, *J.*:

This is a petition for review on *certiorari*[1] of the Court of Appeals' Decision[2] dated May 30, 2005 in CA-G.R. SP No. 85017, and its Resolution[3] dated December 2, 2005, denying petitioner's motion for reconsideration.

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* Designated Acting Member, per Special Order No. 1299 dated August 28, 2012.

1 Under Rule 45 of the Rules of Court.

2 The Decision was rendered by the Special Seventh Division composed of Associate Justice Juan Q. Enriquez, Jr. as Acting Chairman, Associate Justice Vicente Q. Roxas as ponente, and Regalado E. Maambong as member.

3 The Resolution was rendered by the Former Seventh Division composed of Associate Justice Portia Aliño-Hormachuelos as Chairman, Associate Justice Vicente Q. Roxas as ponente, and Associate Justice Juan Q. Enriquez, Jr. as member.

The Court of Appeals reversed and set aside the Decision dated February 2, 2004 of the Department of Agrarian Reform Adjudication Board (DARAB), which affirmed the decision dated October 12, 1998 of the Provincial Agrarian Reform Adjudicator (PARAD) of San Fernando, Pampanga, dismissing respondents' complaint for the annulment of the emancipation patent issued in favor of respondents' tenant, petitioner Crispino Pangilinan, which emancipation patent covered a portion of the land sought to be retained by respondents.

The facts, as stated by the Court of Appeals, are as follows:

Respondent spouses Jocelyn N. Balatbat and Vicente A. Balatbat were found by the PARAD to have landholdings totaling 25.2548 hectares, which consisted of 9.8683 hectares of riceland and 15.3864 hectares of sugarland. The 9.8683 hectares of riceland was covered by land reform.

Out of the 25.2548 hectares of land owned by respondents, 18.2479 hectares or 182,479 square meters[4] thereof was under Original Certificate of Title (OCT) No. 6009. Municipal Agrarian Reform Officer Victorino D. Guevarra found that in OCT No. 6009, 8.6402 hectares or 86,402 square meters was riceland covered by Presidential Decree (P.D.) No. 27 and Executive Order (E.O.) No. 228, while 96,077 square meters was sugarland.[5] The 96,077 square meters of sugarland was subdivided by respondents as follows:

Title No. 181462 -- 64,540 square meters
Title No. 181464 -- 8,904 square meters
Title No. 181469 -- 22,633 square meters
Total 96,077 square meters

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4 Annex "XIII," *rollo*, p. 163.
5 *Rollo*, pp. 163-164.

Title Nos. 181464 and 181469, representing Lots 21-0 and 21-1, were utilized by respondents in a subdivision/condominium project particularly called Carolina Village II, located at San Juan, Sta. Ana, Pampanga, while Title No. 181462, representing Lot 21-B, was subdivided among the children of respondents.

The exact area of riceland respondents applied for retention is 8.3749 hectares, which is covered by TCT No. 181466-R, TCT No. 181465-R, TCT No. 181463-R, and TCT No. 181461-R.[6]

Although 8.6402 hectares was subjected to the Operation Land Transfer Program under P.D. No. 27,[7] as amended by Letter of Instruction (LOI) No. 474, this case involves only 2.9941 hectares or 29,941 square meters thereof, covered under TCT No. 181466-R,[8] and identified as Lot 21-F of the subdivision plan Psd-03-005059, being a portion of Lot 21 Sta. Ana Cadastre, situated in the Barrio of San Juan, Municipality of Sta. Ana, Province of Pampanga. The said Lot 21-F, with an area of 29,941 square meters, was transferred to petitioner as evidenced by TCT No. 25866,[9] which was registered in the Register of Deeds for the Province of Pampanga on May 30, 1997, pursuant to Emancipation Patent No. 00728063 issued by the DAR on April 18, 1997.[10] Hence, respondents sought to cancel the said emancipation patent on the ground that they applied to retain the land covered by it.

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6 See Letter dated February 21, 1997 of Counsel for Petitioner to Ms. Lolita Cruz, Department Manager, LBP, Dolores, San Fernando, Pampanga, records, p. 142.

7 Entitled *Decreeing The Emancipation of Tenants From The Bondage Of The Soil, Transferring To Them The Ownership of the Land They Till And Providing The Instruments And Mechanism Therefor,* promulgated on October 21, 1972 by then President Ferdinand E. Marcos.

8 CA *rollo*, p. 47.

9 *Id*. at 102.

10 *Id*.

Respondents first filed an Application for Retention[11] of their landholdings under P.D. No. 27 on December 24, 1975. However, it was not acted upon.

In May 1996, respondents received a letter from Municipal Agrarian Reform Officer Victorino Guevarra informing respondents of a conference for the determination of the value of their landholdings and the final survey of the land preparatory to the issuance of emancipation patents.

Respondents alleged that on September 16, 1996, they received a Notice of Coverage on OCT No. 6009 under R.A. No. 6657, and on October 28, 1996, they received a final notification to landowner, which notices were all issued by Municipal Agrarian Reform Officer Victorino Guevarra.

In a letter[12] dated September 28, 1996, respondents, by counsel, reiterated their application for retention to the Department of Agrarian Reform (DAR) Regional Director, Region III, San Fernando Pampanga, thru the Municipal Agrarian Reform Office, San Fernando, Pampanga.

The DAR Regional Director referred respondents' application for retention to the Provincial Agrarian Reform Officer in San Fernando, Pampanga, which application was later endorsed to Municipal Agrarian Reform Officer Victorino Guevarra.[13]

After investigation and verification of the landholdings of respondents, Municipal Agrarian Reform Officer Victorino Guevarra, in a letter[14] dated March 21, 1997, recommended to the DAR Provincial Office,

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11 *Id*. at 74.
12 Annex “J,” records, p. 67.
13 Respondents Memorandum, *rollo*, pp. 216-217.
14 Annex “B,” records, p. 93.

San Fernando, Pampanga that respondents' re-application for retention be denied.

On May 30, 1997, the Register of Deeds for the Province of Pampanga issued TCT No. 25866 to petitioner, pursuant to Emancipation Patent No. 00728063[15] covering Lot 21-F of the subdivision plan Psd-03-005059, situated in the Barrio of San Juan, Municipality of Sta. Ana, Province of Pampanga, with an area of 29,941 square meters, which is a portion of the land sought to be retained by respondents. This prompted respondents to file on February 4, 1998 with the DAR Provincial Agrarian Reform Adjudication Board, Region III, San Fernando, Pampanga a Complaint[16] for annulment of emancipation patent, ejectment and damages against petitioner Crispino Pangilinan, Municipal Land Officer Victorino D. Guevarra, and the DAR Secretary, represented by the Regional Director, Region III.

In their Complaint, respondents alleged that although Municipal Agrarian Reform Officer Victorino Guevarra knew that the land cultivated by petitioner is one of those included in their application for retention, Guevarra, acting in bad faith and without notice to them and in disregard of their rights and in collusion with petitioner, recommended for the coverage of their land under Operation Land Transfer. Thereafter, Emancipation Patent No. 00728063 and TCT No. 25866 were unlawfully issued and registered with the Register of Deeds of Pampanga on May 30, 1997.

Respondents prayed for the annulment of TCT No. 25866 bearing Emancipation Patent No. 00728063, the ejectment of petitioner from the landholding in question, and for payment of moral damages, attorney’s fees and litigation expenses.

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15 Records, p. 102.

16 The Complaint was docketed as DARAB Case No. 5357 P’98.

On October 12, 1998, the PARAD rendered a Decision[17] in favor of petitioner, the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered against the plaintiffs by dismissing the case for lack of merit.[18]

The PARAD stated that 9.8683 hectares of the 25.2548 hectares of the landholding of respondents was subjected to Operation Land Transfer. He acknowledged that respondents applied for retention in 1975 under P.D. No. 27.

However, respondents were already barred in their bid for the retention area when they filed their subsequent application for retention on November 6, 1996, since the last day for the landowner to apply for his right of retention under Administrative Order No. 1 of February 27, 1985 was on August 29, 1985.

Moreover, the PARAD explained that the area of retention policy under P.D. No. 27 is that a landowner can retain in naked ownership an area of not more that seven (7) hectares of rice/corn lands if the said landowner does not own an aggregate area of more than seven (7) hectares of land used for residential, commercial, industrial and other urban purposes from which the landowner derives adequate income to support himself and his family. Otherwise, such landowner is compelled to give up his rice/corn land to his tenant-tiller, and payment to him shall be undertaken by the Land Bank of the Philippines (LBP) if not directly paid by such tenant-tiller.

In this case, the PARAD declared that respondents "retained" the sugarland with an area of 15.2864 hectares, and 4.8836 hectares thereof was divided into a subdivision lot, while the remaining balance was subdivided among respondents and their children. Hence, the PARAD held that the area

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17 *Rollo,* pp. 78-86.
18 *Id*. at 86.

of seven hectares that can be retained under P.D. No. 27 can no longer be awarded to respondents, since they already owned an aggregate area of more than seven hectares used for residential and other urban purposes from which they derive adequate income to support themselves and their family.

Moreover, the PARAD stated that petitioner has absolute ownership of the landholding as he has fully paid the amortizations to the LBP.

Respondents appealed the decision of the PARAD before the DARAB.[19]

On February 2, 2004, the DARAB rendered its Decision,[20] the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered, the decision of the Honorable Adjudicator *a quo*, dated October 12, 1998, is hereby AFFIRMED *IN TOTO*.[21]

In support of its decision, the DARAB cited Administrative Order No. 4, Series of 1991, which provides:

> *Subject*: **Supplemental Guidelines Governing the Exercise of Retention Rights by Landowners Under Presidential Decree No. 27**
>
> x x x x
>
> B. Policy Statements
>
> 1. **Landowners covered by P.D. 27 are entitled to retain seven hectares, except those whose entire tenanted rice and corn lands are subject of acquisition and distribution under Operation Land Transfer (OLT). <u>An owner of tenanted rice and corn lands may *not* retain these lands under the following cases</u>:**
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> a. If he, as of 21 October 1972, owned more than 24 hectares of tenanted rice or corn lands; or

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19 Docketed as DARAB Case No. 8024.
20 *Rollo*, pp. 87-93.
21 *Id*. at 92.

> b. **By virtue of LOI 474, if he, as of 21 October 1976, owned less than 24 hectares of tenanted rice or corn lands but additionally owned the following:**
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> - **Other agricultural lands of more than seven hectares, whether tenanted or not, whether cultivated or not, and regardless of the income derived therefrom; or**
>
> - **Lands used for residential, commercial, industrial, or other urban purposes, from which he derives adequate income to support himself and his family**.[22]

In this case, the DARAB noted that respondents' total landholding is 25.2548 hectares. Of the total landholding, 9.8683 hectares was riceland, which was subjected to Operation Land Transfer, while 15.3864 hectares was sugarland, which was subdivided by respondents into a 4.8836 subdivision lot to support themselves and their family. Hence, respondents are no longer entitled to retain seven hectares of the land subject to Operation Land Transfer.

The DARAB also stated that as an emancipation patent has been issued to petitioner, he acquires the vested right of absolute ownership in the landholding.

Respondents' motion for reconsideration was denied by the DARAB in a Resolution[23] dated June 11, 2004.

Petitioner filed a petition for review of the decision of the DARAB before the Court of Appeals, alleging that the DARAB gravely erred in finding that (1) once an emancipation patent is issued to a qualified beneficiary, the latter acquires a vested right of absolute ownership in the landholding that is no longer open to doubt or controversy; and (2) respondents are no longer entitled to retention, applying LOI No. 474.

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22 Emphasis supplied.

23 CA *rollo*, p. 37.

On May 30, 2005, the Court of Appeals rendered a Decision[24] in favor of respondents, the dispositive portion of which reads:

> **WHEREFORE,** premises considered, petition for review is hereby **GIVEN DUE COURSE** and the assailed October 12, 1998 Decision of the Provincial Agrarian Reform Adjudication Board, Region III of San Fernando, Pampanga in DARAB Case No. 537-P'98, is hereby **REVERSED AND SET ASIDE.** TCT No. 25866 is hereby **DECLARED VOID** *ab initio*. The Register of Deeds is hereby **DIRECTED TO CANCEL TCT No. 25866** in the name of Crispino Pangilinan in order to fully accord to petitioners BALATBAT their rights of retention under Presidential Decree No. 27 and Section 6 of R.A. No. 6657, and **TO ISSUE A NEW TCT** in the name of petitioners in lieu of TCT No. 25866 in order to replace TCT No. 181466-R under the name of petitioners that the Register of Deeds of Pampanga cancelled. Since land is tenanted, within a period of one (1) year from finality of this decision, the respondent tenant Crispino Pangilinan shall have the option to choose whether to remain therein or be a beneficiary in the same or another agricultural land with similar or comparable features; in case the tenant chooses to remain in the retained area, he shall be considered a leaseholder and shall lose his right to be a beneficiary under this Act; in case the tenant chooses to be a beneficiary in another agricultural land, he loses his right as a leaseholder to the land retained by the landowner.[25]

The Court of Appeals stated that P.D. No. 27 allows a landowner to retain not more than seven (7) hectares of his land if his aggregate landholding does not exceed twenty-four (24) hectares.[26] In this case, respondents' total landholding is 25.2548 hectares, of which 9.8683 hectares was covered by land reform being riceland, while the balance of 15.3864 hectares was sugarland. Since respondents timely filed their application for retention of seven hectares way back in 1975 and the deadline was in 1985, the Court of Appeals held that respondents were qualified to retain at least seven hectares.

Moreover, the Court of Appeals stated that under Administrative Order No. 2, Series of 1994, an Emancipation Patent or Certificate of Land Ownership Award may be cancelled if the land covered is later found to be

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24 *Rollo*, pp. 29-40.

25 *Id*. at 39.

26 *Id.* at 35, citing DAR Memorandum on the Interim Guidelines on Retention By Small Landowners, issued on July 10, 1975.

part of the landowner's retained area. The appellate court held that the transfer certificate of title issued on the basis of the certificate of land transfer could not operate to defeat the right of respondents to retain the five hectares they have chosen, which includes the said less than three (3) hectares (29,942 square meters) of riceland involved in this case.

Petitioner's motion for reconsideration was denied for lack of merit by the Court of Appeals in a Resolution[27] dated December 2, 2005.

Petitioner filed this petition raising the following issues:

> I. THE HONORABLE COURT OF APPEALS COMMITTED A GRAVE ERROR WHEN IT DECIDED CA-G.R. [SP] NO. 85017 WITHOUT REQUIRING THAT PETITIONER HEREIN (AS PRIVATE RESPONDENT IN CA-G.R. [SP] NO. 85017) BE FURNISHED WITH A COPY OF THE PETITION, THUS DEPRIVING THE LATTER HIS RIGHT TO BE HEARD AND TO PRESENT EVIDENCE IN OPPOSITION THERETO.
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> II. THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED WHEN IT FAILED TO RECOGNIZE THAT HEREIN PRIVATE RESPONDENTS FILED THE PETITION IN THE COURT OF APPEALS (CA-G.R [SP] NO. 85017) IN UTMOST BAD FAITH AND ARE GUILTY OF WILLFUL AND DELIBERATE FORUM SHOPPING AND PERJURY.
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> III. IF THE PETITION IN CA-G.R. SP NO. 85017 DURING THE PENDENCY OF THE APPLICATION FOR RETENTION OF PRIVATE RESPONDENTS IS NOT CONSIDERED FORUM SHOPPING, THE HONORABLE COURT OF APPEALS SHOULD HAVE, AT THE VERY LEAST, CONSIDERED THE FORMER AS *LITIS PENDENTIA* WHICH NECESSITATES THE DISMISSAL OF THE LATER SUIT.
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> IV. THE HONORABLE COURT OF APPEALS ERRED IN NOT DECLARING THAT PRIVATE RESPONDENTS HAVE NO CAUSE OF ACTION FOR THE CANCELLATION OF THE SUBJECT EMANCIPATION PATENT.
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> V. THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED WHEN IT FAILED TO REALIZE THAT IT WAS PREMATURE FOR IT TO DECLARE THAT PRIVATE RESPONDENTS ARE ENTITLED TO RETAIN THE SUBJECT LANDHOLDING.

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[27] *Rollo*, pp. 54-55.

> VI. THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN NOT FINDING THAT THE PRIVATE RESPONDENTS FAILED TO EXHAUST THE AVAILABLE ADMINISTRATIVE REMEDIES PERTAINING TO THEIR APPLICATION FOR RETENTION BEFORE FILING THEIR COMPLAINT AT THE PROVINCIAL AGRARIAN REFORM ADJUDICATOR OF PAMPANGA AND THE PETITION IN CA-G.R. [SP] NO. 85017.
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> VII. THE PROVINCIAL AGRARIAN REFORM ADJUDICATOR OF PAMPANGA ERRED IN ADJUDICATING THE RIGHT OF RETENTION OF THE PRIVATE RESPONDENTS.
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> VIII. THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED WHEN IT TOOK COGNIZANCE OF THE PETITION IN CA-G.R. [SP] NO. 85017 DESPITE THE FACT THAT IT HAD NO JURISDICTION TO ENTERTAIN THE SAME.
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> IX. THE DECISION OF THE HONORABLE COURT OF APPEALS IN CA-G.R. [SP] NO. 85017 CANNOT BE ENFORCED AGAINST THE REGISTRY OF DEEDS OF PAMPANGA CONSIDERING THAT IT WAS NOT IMPLEADED IN THE CASE FILED BEFORE THE PARAD OF PAMPANGA NOR IN CA-G.R. [SP] NO. 85017.[28]

Petitioner contends that he was deprived of the right to be heard and denied due process of law because he was not personally furnished a copy of the petition in CA-G.R. SP No. 85017, which copy was furnished to Mr. Fernando Dizon, his legal counsel before the PARAD and the DARAB. According to petitioner, the legal services rendered to him by Mr. Fernando Dizon in DARAB Case No. 5357- P'98 was merely an accommodation to him in Mr. Dizon's capacity as Legal Officer for the Legal Services Division of the DAR. Petitioner asserts that after the case was decided and resolved by the DARAB, the legal assistance extended to him by Mr. Fernando Dizon ended, simply because Mr. Fernando Dizon is not a full-fledged lawyer**,** which the respondents knew very well. Thus, the Decision of the Court of Appeals, dated May 30, 2005, cannot be enforced against him.

Petitioner's contention lacks merit.

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[28] *Id*. at 9-10.

Petitioner was not denied due process or the right to be heard as he was furnished with a copy of the petition through his counsel of record, Mr. Fernando Dizon, who was his legal counsel before the PARAD and the DARAB. The Court notes that the applicable DARAB New Rules of Procedure (1994)[29] allows a non-lawyer to appear before the Board or any of its adjudicators if he is a DAR Legal Officer. As Mr. Dizon was his counsel of record before the PARAD and the DARAB, it may be presumed that petitioner and Mr. Dizon communicated with each other as Mr. Dizon even filed a Comment to the Petition for Review filed by respondents before the Court of Appeals. The filing of the said Comment would show that petitioner was informed by Mr. Dizon that respondents filed a Petition for Review of the Decision of the DARAB with the Court of Appeals. Hence, it is the responsibility of petitioner to engage the services of a lawyer to file a Comment in his behalf and to inform the court of any change of counsel.

Section 2, Rule 13 (Filing and Service of Pleadings, Judgments and Other Papers) of the Rules of Court provides:

> Sec. 2. *Filing and service, defined.* – Filing is the act of presenting the pleading or other paper to the clerk of court.
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> Service is the act of providing a party with a copy of the pleading or paper concerned. **If any party has appeared by counsel, service upon him shall be made upon his counsel or one of them, unless service upon the party himself is ordered by the court.** Where one counsel appears for several parties, he shall only be entitled to one copy of any paper served upon him by the opposite side. (Emphasis supplied.)

As petitioner had a counsel of record, service was properly made upon the said counsel, absent any notification by petitioner to the court of circumstances requiring service upon petitioner himself.

The essence of due process is simply an opportunity to be heard. Such process requires notice and an opportunity to be heard before judgment

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[29] DARAB New Rules of Procedure (1994), Rule VII, Sec. 1.

is rendered.[30] *Rizal Commercial Bank Corporation v. Commissioner of Internal Revenue*,[31] held:

> There is no question that the "essence of due process is a hearing before conviction and before an impartial and disinterested tribunal," but due process as a constitutional precept does not always, and in all situations, require a trial-type proceeding. The essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense. "To be heard" does not only mean verbal arguments in court; one may be heard also through pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.[32]

In this case, petitioner was not denied due process as he was able to file a comment before the Court of Appeals through his counsel of record, DAR Legal Officer Dizon. Moreover, records show that petitioner, with the assistance of two lawyers, Atty. Paul S. Maglalang and Atty. Jord Achaes R. David, filed a motion for reconsideration of the decision of the Court of Appeals dated May 30, 2005, which motion was denied for lack of merit by the Court of Appeals in its Resolution dated December 2, 2005.

Next, petitioner contends that respondents were guilty of forum shopping when they filed on February 4, 1998 the complaint for annulment of emancipation patent, ejectment and damages, since they failed to divulge to the PARAD, DARAB and the Court of Appeals that they had filed an application for retention dated September 28, 1996[33] with the DAR Regional Director, and that the DAR Regional Director denied their application for retention in an Order[34] dated March 12, 1998, and respondents moved for the reconsideration of the said Order of denial; hence, their application for retention was still pending.

Petitioner's contention is unmeritorious.

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30 *Calma v. Court of Appeals*, G.R. No. 122787, February 9, 1999, 302 SCRA 682, 689.
31 G.R. No. 168498, June 16, 2006, 491 SCRA 213.
32 *Id*. at 218, citing *Batongbakal v. Zafra*, G.R. No. 141806, January 17, 2005, 448 SCRA 399, 410.
33 Respondents' Memorandum, *rollo*, p. 215.
34 *Rollo*, pp. 66-68.

Chavez v. Court of Appeals[35] held:

> x x x By forum shopping, a party initiates two or more actions in separate tribunals, grounded on the same cause, trusting that one or the other tribunal would favorably dispose of the matter. **The elements of forum shopping are the same as in *litis pendentia* where the final judgment in one case will amount to *res judicata* in the other.** The elements of forum shopping are: (1) identity of parties, or at least such parties as would represent the same interest in both actions; (2) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (3) identity of the two preceding particulars such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.[36]

There is no forum shopping in this case as the parties involved and the reliefs prayed for are different.

In the letter dated September 28, 1996 addressed to the DAR Regional Director, Region III, respondents reiterated their application for retention of their riceland under R.A. No. 6657. On March 12, 1998, respondents' application for retention was denied by the DAR Regional Director, Region III in Agrarian Reform Case No. LSD 0051 '98.[37] Hence, the party involved in the agrarian reform case is only the respondents, who applied for retention of their landholdings under R.A. No. 6657 before the DAR. The relief sought was the exercise of respondents' right of retention granted to them as landowners under R.A. No. 6657.

On the other hand, the Complaint filed by respondents against petitioner before the PARAD was for annulment of emancipation patent, ejectment and damages.[38] The parties involved were respondents, petitioner, the Municipal Agrarian Reform Officer Victorino D. Guevarra, the DAR Secretary represented by the Regional Director, Region III. The reliefs prayed for was the annulment of the emancipation patent granted to petitioner and the ejectment of petitioner, on the ground that respondents'

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35 G.R. No. 174356, January 20, 2010, 610 SCRA 399.
36 *Chavez v. Court of Appeals*, *supra*, at 403. (Emphasis and underscoring supplied.)
37 *Rollo*, p. 66.
38 Records, p. 5.

application for retention of their agricultural landholdings, which included the land granted to petitioner in the emancipation patent and the subsequent transfer certificate of title issued pursuant to the emancipation patent, was still unacted upon.

The essence of forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment.[39] In this case, the letter of application for retention of land addressed to the DAR is not a suit against petitioner. Moreover, respondents filed the complaint for annulment of emancipation patent *after* petitioner was awarded Emancipation Patent No. 00728063 and issued TCT No. 25866, despite the fact that the DAR had not yet ruled on their application for retention of their landholdings, including Lot 21-F, which is the parcel of land covered by Emancipation Patent No. 00728063 granted to petitioner. Hence, it is not shown that herein respondents, as plaintiffs, filed two suits against the same defendants, and that the complaint for annulment of emancipation patent was filed to obtain a favorable judgment on the application for retention, but to protest the issuance of the emancipation patent to petitioner, as respondents' application for retention had not yet been acted upon.

Moreover, petitioner contends that if the petition in CA-G.R. SP No. 85017 during the pendency of the application for retention of private respondents is not considered forum shopping, the Court of Appeals should have at least considered the former as *litis pendentia*, which necessitates the dismissal of the later suit.

Petitioner’s contention is without merit.

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[39] *GD Express Worldwide N.V. v. Court of Appeals*, G.R. No. 136978, May 8, 2009, 587 SCRA 333, 346.

Dotmatrix Trading v. Legaspi[40] explained the meaning and elements of *litis pendentia*, thus:

> *Litis pendentia* is a Latin term, which literally means "a pending suit" and is variously referred to in some decisions as *lis pendens* and *auter action pendant*. As a ground for the dismissal of a civil action, it refers to the situation where two actions are pending between the same parties for the same cause of action, so that one of them becomes unnecessary and vexatious. It is based on the policy against multiplicity of suits.
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> To constitute *litis pendentia*, not only must the parties in the two actions be the same; there must as well be substantial identity in the causes of action and in the reliefs sought. Further, the identity should be such that any judgment that may be rendered in one case, regardless of which party is successful, would amount to *res judicata* in the other.[41]

As the elements of forum shopping, which have been discussed earlier, are the same as the elements of *litis pendentia*, and the said elements are not found to be present in this case, *litis pendentia* cannot be a ground for the dismissal of the complaint for annulment of emancipation patent.

Contrary to petitioner's contention, the Register of Deeds for the Province of Pampanga was correctly not impleaded in the complaint for annulment of emancipation patent before the DARAB as it is neither a party in interest who stands to be benefited or injured by the judgment in the suit nor a necessary party whose presence is necessary to adjudicate the whole controversy, but whose interests are so far separable that a final decree can be made in their absence without affecting them.[42]

Further, petitioner contends that the PARAD and the DARAB had no jurisdiction over the complaint of respondents as it is the DAR Secretary who has jurisdiction over the right of retention. Petitioner avers that on November 6, 1996, the applicable procedure in applications for retention under P.D. No. 27 is Administrative Order No. 4 series of 1991, while

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40 G.R. No. 155622, October 26, 2009, 604 SCRA 431.
41 *Dotmatrix Trading v. Legaspi*, *supra*, at 436.
42 *Quiombing v. Court of Appeals*, G.R. No. 93010, August 30, 1990, 189 SCRA 325, 330.

applications under CARP are governed by Administrative Order No. 11, series of 1990. In both the aforesaid administrative orders, it is the DAR Regional Director who has the original jurisdiction to approve or deny applications for retention. In both instances, the decision or order of the DAR Regional Director is appealable to the DAR Secretary.

Respondents counter that the PARAD and the DARAB had jurisdiction over the case, since it is for the annulment of an emancipation patent registered with the Register of Deeds, which falls under Section 1, Rule II of the DARAB New Rules of Procedure.

On the issue of jurisdiction, the Court is guided by *Heirs of Julian Dela Cruz and Leonora Talaro v. Heirs of Alberto Cruz,*[43] which held:

> 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.
>
> Indeed, the jurisdiction of the court or tribunal is not affected by the defenses or theories set up by the defendant or respondent in his answer or motion to dismiss. Jurisdiction should be determined by considering not only the status or the relationship of the parties but also the nature of the issues or questions that is the subject of the controversy. **If the issues between the parties are intertwined with the resolution of an issue within the exclusive jurisdiction of the DARAB, such dispute must be addressed and resolved by the DARAB**. The proceedings before a court or tribunal without jurisdiction, including its decision, are null and void, hence, susceptible to direct and collateral attacks.[44]

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[43] G.R. No. 162980, November 22, 2005, 475 SCRA 743.

[44] *Heirs of Julian Dela Cruz and Leonora Talaro v. Heirs of Alberto Cruz, supra*, at 755-757. (Emphasis supplied.)

In this case, respondents alleged in their Complaint:

x x x x

2. That plaintiffs are the absolute and registered owners of a parcel of land covered by Transfer Certificate of Title (TCT) No. 181466-R of the Registry of Deeds of Pampanga, x x x which parcel of land is situated at San Juan, Sta. Ana, Pampanga, with an area of twenty-nine thousand nine hundred forty-one (29,941) square meters, more or less;

3. That sometime in the year 1975, plaintiffs filed an application for retention which was not acted upon but the application for retention was for the plaintiffs to retain a portion of their landholdings under P.D. No. 27;

4. That the application for retention refers to the land cultivated by the private defendant, Crispino Pangilinan, as one of those lands applied for;

5. That the application for retention was reiterated in a letter of the plaintiffs' counsel dated November 6, 1996 to the Officer-in-Charge, Provincial Agrarian Reform Office (PARO), San Fernando, Pampanga, of the public defendant which was known to private defendant, Victorino D. Guevarra, being then the Municipal Agrarian Reform Officer of the Department of Agrarian Reform in the Municipality of Sta. Ana, Pampanga;

6. That despite private defendant Victorino Guevarra's knowledge of the fact that the land is one of those applied for retention, he acted in bad faith and without notice to the plaintiffs and in wanton disregard of the rights of the plaintiffs and in collusion with the private defendant, Crispino Pangilinan, recommended for the coverage of the latter's land under Operation Land Transfer and through the defendants' collective efforts, private defendants requested for the issuance of Transfer Certificate of Title (TCT) No. 25866 with Emancipation Patent (E.P.) No. 00728063 which was unlawfully issued and registered with the Register of Deeds of Pampanga on May 30, 1997;

x x x x

WHEREFORE, it is most respectfully prayed of the Honorable Board, that after hearing, judgment be rendered, to wit:

1. Ordering the annulment of Transfer Certificate of Title No. 25866 bearing Emancipation Patent No. 00728063 and declaring it to have no force and effect;

2. Ordering the ejectment of the private defendant, Crispino Pangilinan, from the landholding in question;

3. Ordering the defendants to pay plaintiffs the amount of One Hundred Thousand Pesos (₱100,000.00) by

> way of moral damages, Twenty Thousand Pesos (₱20,000.00), plus appearance fee of Eight Hundred Pesos (₱800.00) by way of attorney's fees and litigation expenses in the amount of Five Thousand Pesos (₱5,000.00); and
>
> 4. Other reliefs are likewise prayed.[45]

The Court holds that the Complaint is within the jurisdiction of the PARAD and the DARAB, as it seeks the annulment of petitioner's emancipation patent which has been registered with the Register of Deeds for the Province of Pampanga. The jurisdiction of the DARAB under Section 1,[46] Rule II, of the applicable DAR New Rules of Procedure (1994) includes "[t]hose 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." Section 2 of the said DARAB New Rules of Procedure grant the PARAD "concurrent original jurisdiction with the Board to hear, determine and adjudicate all agrarian cases and disputes, and incidents in connection therewith, arising within their assigned territorial jurisdiction."

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[45] Records, p. 5.

[46] 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:

> a) The rights and obligations of persons, whether natural or juridical, engaged in the management, cultivation and use of all agricultural lands covered by the CARP and other agrarian laws;
> b) The valuation of land, and the preliminary determination and payment of just compensation, fixing and collection of lease rentals, disturbance compensation, amortization payments, and similar disputes concerning the functions of the Land Bank of the Philippines (LBP);
> c) The annulment or cancellation of lease contracts or deeds of sale or their amendments involving lands under the administration and disposition of the DAR or LBP;
> d) Those cases arising from or connected with membership or representation in compact farms, farmers' cooperative and other registered farmers' associations or organizations, related to lands covered by the CARP and other agrarian laws;
> e) Those involving the sale, alienation, mortgage, foreclosure, preemption and redemption of agricultural lands under the coverage of the CARP or other agrarian laws;
> f) Those involving the issuance, correction and cancellation of Certificates of Land Ownership Awards (CLOAS) and Emancipation Patents (EPs) which are registered with the Land Registration Authority;
> x x x x (Emphasis supplied.)

The resolution of the issue on whether petitioner's emancipation patent should be cancelled hinged on the right of retention of respondents; hence, the PARAD and the DARAB determined respondents' right of retention. The applicable DARAB New Rules of Procedure (1994) did not contain a contrary proviso in Section 1 or Section 1 (f) thereof.

The Court notes that even before the Provincial Adjudicator rendered his decision dated October 12, 1998 on the complaint for annulment of petitioner's emancipation patent, the DAR Regional Director of Pampanga had already issued an Order[47] dated March 12, 1998, denying the application for retention of respondents. The DAR Regional Director held, thus:

> x x x [T]he applicant seeks before this Office the grant of five (5) hectares of her landholding as retention rights under the law and, further, requested that said retention area is from her landholding covered and embraced by Title Nos. TCT-181461, 181463, 181464, 181465, 181466, 181467 and 181468.
>
> Records of the case disclosed that the Municipal Agrarian Reform Office (MARO) concerned recommended for the denial of the subject application which also the Provincial Agrarian Reform Office concurred with the findings of the MARO, hence, likewise strongly recommended the disapproval of this instant case.
>
> This Office, after painstaking scrutiny of records as well as the foregoing recommendation of the MARO and PARO, is inclined to agree with said findings. This is so because records will bear us out that the 8.6402 hectares is not only the landholding of the herein applicant as the latter owns other properties as evidenced by the Certification of the Deputy Clerk of Court, Court of First Instance of Pampanga, executed on December 24, 1975.
>
> Further, per investigation conducted by this Office, the applicant once applied for retention under PD No. 27, under the incumbency of the then Team Leader Florencio Siman of which the former declared to have a total of 9.8683 hectares, more or less, of tenanted rice and corn lands situated at San Juan and Santiago, all at the Municipality of Sta. Ana, Province of Pampanga. Said application was received by DAR Sta. Ana Office on December 24, 1975, but however, it appears that it was not acted [upon] nor forwarded [to] this Office for action.
>
> It appears also from the records of this case that it is only now [that] the applicant is re-applying for retention as per letter of her counsel, Atty. Proceso M. Nacino, dated November 6, 1996. This time, the MARO

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47 *Rollo*, pp. 66-68.

had already processed and forwarded to the PARO the claimfolders of applicant tenant-farmers, whereby, the Emancipation Patent Titles of the applicant farmer-beneficiaries, namely: Maximo Lagman, Crispino Pangilinan and Cecilio Yumul were already generated, issued and distributed to them as evidenced by the certification issued by the Land Bank of the Philippines (LBP).

Additionally, with respect to the portion of the landholding of the applicant which was utilized as subdivision/condominium project named Carolina Village II, Administrative Order No. 4, Series of 1991, giving close attention to Policy Statements I-B, which provides that:

"1. Landowners covered by PD 27 are entitled to retain seven hectares[,] except those [whose] entire [tenanted] rice and corn lands are subject of acquisition and distribution under Operation Land Transfer (OLT). An owner of tenanted rice and corn lands may not retain these lands under the following cases:

x x x x

b. [B]y virtue of LOI 474, if he as of 21 October 1976 owned less than 24 hectares of tenanted rice and corn lands but additionally owned the following:

- Other agricultural lands of more than seven (7) hectares, whether tenanted or not, whether cultivated or not, and [regardless of the income derived therefrom]; or

- Lands used for residential, commercial, industrial, or other urban purposes[,] from which he derives adequate income to support himself and his family."

Given this situation, it is in this provision of law that this Office strongly deny the application for retention of the herein applicant in favor of the farmer-beneficiaries concerned who had already been issued their Emancipation Patents (EP).

WHEREFORE, in the light of the foregoing analysis and for the reason indicated therein, an ORDER is hereby issued DENYING the application for retention of Jocelyn Balatbat for utter lack of merit.

SO ORDERED.[48]

The legal basis of the decision of the DARAB in determining whether respondents were qualified to retain their riceland, in order to resolve the main issue on whether there was a ground for the cancellation of

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[48] *Id*. at 67-68.

petitioner's emancipation patent, is the same as the legal basis of the DAR Regional Director in denying respondents' application for retention.

Moreover, the decision of the DARAB is appealable to the Court of Appeals, pursuant to Section 54[49] of R.A. No. 6657; Section 1,[50] Rule XIV of the DAR New Rules of Procedure (1994); and Section 1,[51] Rule 43 of the Revised Rules of Court, as amended by Administrative Circular No. 20-95.

The main issue in this case is whether or not the Court of Appeals erred in reversing and setting aside the decision of the DARAB, dated February 2, 2004, and its Resolution dated June 11, 2004; in declaring TCT No. 25866 issued in favor of petitioner as void *ab initio*; and in ordering the Register of Deeds to cancel TCT No. 25866 and to issue a new TCT in the name of respondents to replace TCT No. 181466-R under respondents' name, which the Register of Deeds of Pampanga canceled.

The Court holds that the Court of Appeals erred in reversing and setting aside the decision of the DARAB, dated February 2, 2004, and its Resolution dated June 11, 2004, which affirmed the Decision of the PARAD, dated October 12, 1998.

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[49] Section 54. *Certiorari*. -- Any decision, order, award or ruling of the DAR on the agrarian dispute or on any matter pertaining to the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform may be brought to the Court of Appeals by *certiorari* except as otherwise provided in this Act within fifteen (15) days from receipt of a copy thereof.

[50] Section 1. *Certiorari to the Court of Appeals*. – Any decision, order, resolution, award or ruling of the Board on any agrarian dispute or on any matter pertaining to the application, implementation, enforcement, interpretation of agrarian reform laws or rules and regulations promulgated thereunder, may be brought within fifteen (15) days from receipt of a copy thereof, to the Court of Appeals by *certiorari.* Notwithstanding an appeal to the Court of Appeals, the decision of the Board appealed from shall be immediately executory pursuant to Section 50, Republic Act No. 6657.

[51] Section 1. *Scope*. – **This Rule shall apply to appeals from judgments or final orders of the** Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, **Department of Agrarian Reform under Republic Act No. 6657**, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law. (Emphasis supplied.)

The Court of Appeals reversed the decision of the DARAB on the ground that the right of retention by the landowner is a constitutionally guaranteed right and respondents timely filed their application for retention of seven hectares in 1975, ahead of the deadline set on August 29, 1985; hence, respondents were qualified to retain at least seven hectares, although they sought to retain only 5 hectares. However, the Court of Appeals failed to look into the legal basis cited by the DARAB that disqualified landowners from exercising their right of retention, particularly Administrative Order No. 4, series of 1991, and also LOI No. 474, which are applicable to this case and would have made a difference in the judgment of the Court of Appeals if it had considered the said laws in its decision.

The laws pertinent to this case are P.D. No. 27, LOI No. 474 and Administrative Order No. 4, series of 1991.

On October 21, 1972, then President Ferdinand E. Marcos issued P.D. No. 27, entitled *Decreeing The Emancipation Of Tenants From The Bondage Of The Soil, Transferring To Them The Ownership Of The Land They Till And Providing The Instruments And Mechanisms Therefor.* P.D. No. 27 states:

> This shall apply to tenant farmers of private agricultural lands primarily devoted to rice and corn under a system of sharecrop or lease-tenancy, whether classified as landed estate or not;
>
> The tenant farmer, whether in land classified as landed estate or not, shall be deemed owner of a portion constituting a family-size farm of five (5) hectares if not irrigated and three (3) hectares if irrigated;
>
> In all cases, the landowner may retain an area of not more than seven (7) hectares if such landowner is cultivating such area or will now cultivate it;

On October 21, 1976, then President Marcos, issued LOI No. 474, which reads:

To: The Secretary of Agrarian Reform.

WHEREAS, last year I ordered that small landowners of tenanted rice/corn lands with areas of less than twenty-four hectares but above seven hectares shall retain not more than seven hectares of such lands except when they own other agricultural lands containing more than seven hectares or land used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families;

WHEREAS, the Department of Agrarian Reform found that in the course of implementing my directive there are many landowners of tenanted rice/corn lands with areas of seven hectares or less who also own other agricultural lands containing more than seven hectares or lands used for residential, commercial, industrial or other urban purposes where they derive adequate income to support themselves and their families;

WHEREAS, it is therefore necessary to cover said lands under the Land Transfer Program of the government to emancipate the tenant-farmers therein.

NOW, THEREFORE, I, PRESIDENT FERDINAND E. MARCOS, President of the Philippines, do hereby order the following:

1. You shall undertake to place under the Land Transfer Program of the government pursuant to Presidential Decree No. 27, all tenanted rice/corn lands with areas of seven hectares or less belonging to landowners who own other agricultural lands of more than seven hectares in aggregate areas or lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families. x x x (Emphasis supplied.)

In June 1988, R.A. No. 6657, otherwise known as *The Comprehensive Agrarian Reform Law of 1988*, took effect under the administration of then President Corazon C. Aquino. Section 6 of R.A No. 6657 provides for the right of retention of landowners, thus:

SEC. 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-sized 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 area originally retained by them thereunder. x x x

On April 26, 1991, the DAR Secretary issued Administrative Order No. 4, series of 1991 on the Supplemental Guidelines Governing the Exercise of Retention Rights by Landowners Under Presidential Decree No. 27. The pertinent provisions thereof are as follows:

> x x x x
>
> B. Policy Statements
>
> 1. Landowners covered by P.D. 27 are entitled to retain seven hectares, except those whose entire tenanted rice and corn lands are subject of acquisition and distribution under Operation Land Transfer (OLT). An owner of tenanted rice and corn lands may not retain these lands under the following cases:
>
> a. If he, as of 21 October 1972, owned more than 24 hectares of tenanted rice and corn lands; or
>
> b. by virtue of LOI 474, if he, as of 21 October 1976, owned less than 24 hectares of tenanted rice or corn lands, but additionally owned the following:
>
> - Other agricultural lands of more than seven hectares, whether tenanted or not, whether cultivated or not, and regardless of the income derived therefrom; or
> - Lands used for residential, commercial, industrial, or other urban purposes, from which he derives adequate income to support himself and his family.

In *Heirs of Aurelio Reyes v. Garilao*,[52] the Court held that LOI No. 474 provides for a restrictive condition on the exercise of the right of retention, specifically disqualifying landowners who "own other agricultural lands of more than seven hectares in aggregate areas, or lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families."[53] The

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52 G.R. No. 136466, November 25, 2009, 605 SCRA 294.

53 *Id*. at 307.

Court noted that the restrictive condition in LOI No. 474 is essentially the same one contained in Administrative Order No. 4, series of 1991.[54]

Heirs of Aurelio Reyes[55] ruled that there is no conflict between R.A. No. 6675 and LOI No. 474, as both can be given a reasonable construction so as to give them effect.[56] The suppletory application of laws is sanctioned under Section 75[57] of RA No. 6675. *Heirs of Aurelio Reyes*,[58] thus, held:

> Withal, this Court concludes that while RA No. 6675 is the law of general application, LOI No. 474 may still be applied to the latter. Hence, landowners under RA No. 6675 are entitled to retain five hectares of their landholding; however, if they too own other "lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families," they are disqualified from exercising their right of retention.[59]

In this case, the DARAB and the Court of Appeals agreed that respondents' total landholding is 25.2548 hectares, and that 9.8683 hectares thereof was riceland, which was subjected to Operation Land Transfer, while 15.3864 hectares was sugarland. In addition, the PARAD and the DARAB found that the 15.3864 hectares of sugarland was subdivided by respondents into a 4.8836 subdivision lot to support themselves and their family; hence, under LOI No. 474 and Administrative Order No. 4, series of 1991, the PARAD and the DARAB held that respondents are no longer entitled to retain seven hectares of the land subject to Operation Land Transfer. The decisions of the PARAD and the DARAB are supported by the Court's ruling in *Heirs of Aurelio Reyes v. Garilao*[60] cited above. As the PARAD and the DARAB found that respondents are disqualified to retain

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54 *Id.*

55 *Supra* note 52.

56 *Id.* at 312.

57 SEC. 75. *Suppletory Application of Existing Legislation*. - The provisions of Republic Act Number 3844, as amended, Presidential Decree Numbers 27 and 266, as amended, Executive Order Numbers 228 and 229, both series of 1987, and other laws not inconsistent with this Act, shall have suppletory effect.

58 *Supra* note 52.

59 *Supra* note 52, at 313.

60 *Supra* note 52.

the parcel of land, which is the subject matter of this case, there was no ground to cancel the emancipation patent of petitioner; hence, the DARAB affirmed the decision of the PARAD dismissing respondents' complaint for lack of merit.

The Court notes that the Decision dated October 12, 1998 of the PARAD and the Decision dated February 2, 2004 of the DARAB, affirming the decision of the PARAD dismissing for lack of merit the complaint for annulment of petitioner's patent, was based on the same DAR Administrative Order (Administrative Order No. 4, series of 1991) applied by the DAR Regional Director in denying the application for retention of respondents. The respective decisions of the PARAD and the DARAB, that there was no ground for the cancellation of petitioner's emancipation patent, hinged on the finding that respondents were disqualified to retain their riceland, and the legal basis of the said disqualification is consistent with the legal basis of the Regional Director's Order dated March 12, 1998, denying respondents' application for retention.

Administrative Order No. 11, series of 1990, which contains the Rules and Procedures Governing the Exercise of Retention Rights by Landowners and Award to Children Under Section 6 of RA 6657 states that “[t]he decision of the Regional Director approving or disapproving the application of the landowner for the retention and award shall become final after fifteen (15) days upon receipt of the decision, unless an appeal is made to the DAR Secretary.” Moreover, Administrative Order No. 4, series of 1991, which contains the Supplemental Guidelines Governing the Exercise of Retention Rights by Landowners Under Presidential Decree No. 27 states that “[t]he Order of the Regional Director approving or denying the application for retention shall become final fifteen (15) days from receipt of the same unless an appeal is made to the DAR Secretary.” Hence, it is the DAR Secretary who finally approves or denies the application for retention.

In this case, the Order dated March 12, 1998 of the Regional Director, denying respondents' application for retention, appears to be pending before the DAR Secretary, and respondents failed to present any evidence that the said Order had been reversed to warrant the cancellation of petitioner's emancipation patent.

WHEREFORE, the Court of Appeals' Decision dated May 30, 2005 in CA-G.R. SP No. 85017, and its Resolution dated December 2, 2005 are **REVERSED** and **SET ASIDE**, and the Decision of the DARAB dated February 2, 2004 in DARAB Case No. 8024 and its Resolution dated June 11, 2004 are hereby **REINSTATED**.

No costs.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

ROBERTO A. ABAD
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third 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