Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

HEIRS OF LUIS A. LUNA and REMEGIO A. LUNA, and LUZ LUNA-SANTOS, as represented by their Attorney-in-fact, AUREA B. LUBIS,
Petitioners,

-versus-

RUBEN S. AFABLE, TOMAS M. AFABLE, FLORANTE A. EVANGELISTA, LEOVY S. EVANGELISTA, JAIME M. ILAGAN, ET. AL.,
Respondents.

G.R. No. 188299

Present:

CARPIO,
Chairperson,
DEL CASTILLO,
PEREZ,
PERLAS-BERNABE,
LEONEN,* *JJ.*

Promulgated:
JAN 23 2013

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DECISION

PEREZ, *J.*:

The power of local government units to convert or reclassify lands from agricultural to non-agricultural prior to the passage of Republic Act (RA) No. 6657 – the Comprehensive Agrarian Reform Law (CARL) – is not subject to the approval of the Department of Agrarian Reform (DAR).[1] In this sense, the authority of local government units to reclassify land before

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* Per Special Order No. 1408 dated 15 January 2013.

[1] *Heirs of Dr. Jose Deleste v. Land Bank of the Philippines*, G.R. No. 169913, 8 June 2011, 651 SCRA 352, 376, citing *Pasong Bayabas Farmers Association, Inc. v. CA*, G.R. No. 142359 and 142980, 25 May 2004, 429 SCRA 109, 134-135.

15 June 1988 – the date of effectivity of the CARL – may be said to be absolute.

Before the Court is a Petition for Review on *Certiorari* seeking to reverse and set aside the 13 March 2009 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 101114 and its 10 June 2009 Resolution[3] denying petitioners' motion for reconsideration.

The Facts

Petitioners are co-owners of a parcel of land covered by Transfer Certificate of Title (TCT) No. J-7205 (T-54199), with an area of 158.77 hectares, located in *Barangay* Guinobatan, Calapan City, Oriental Mindoro.[4] 100.2856 hectares of the landholding was subjected to compulsory acquisition under the Comprehensive Agrarian Reform Program (CARP) through a Notice of Land Valuation and Acquisition dated 20 August 1998 issued by the Provincial Agrarian Reform Officer (PARO) and published in a newspaper of general circulation on 29, 30 and 31 August 1998.[5]

Respondents were identified by the DAR as qualified farmer-beneficiaries; hence, the corresponding Certificates of Land Ownership Award (CLOAs) were generated, issued to respondents and duly registered in their names on 12 October 1998.[6]

On 21 October 1998, petitioners filed before the DAR Adjudication Board (DARAB) Oriental Mindoro a Petition for "Cancellation of CLOAs,

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2 Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Juan Q. Enriquez and Sesinando E. Villon concurring. *Rollo*, pp. 64-92.

3 Id. at 94-98.

4 Id. at 65-66 and 177-178. CA Decision and DARAB Joint Decision, respectively.

5 Id. at 178. DARAB Joint Decision; DAR Records, Folder No. 6, p. 79, DARAB Decision dated 9 October 2003.

6 DAR Records, Folder No. 6, p. 79. DARAB Decision dated 9 October 2003.

Revocation of Notice of Valuation and Acquisition and Upholding and Affirming the Classification of Subject Property and Declaring the same outside the purview of RA No. 6657."[7] The petition was anchored mainly on the reclassification of the land in question into a light intensity industrial zone pursuant to Municipal Ordinance No. 21, series of 1981, enacted by the *Sangguniang Bayan* of Calapan, thereby excluding the same from the coverage of the agrarian law.

The Ruling of the DARAB Calapan City

In a Decision dated 26 August 1999, the DARAB disposed of the petition in the following manner:

> IN THE LIGHT OF the foregoing, judgment is hereby rendered[:]
>
> 1. Ordering the Cancellation of Certificates of Land Ownership Award x x x issued by the Department of Agrarian Reform in favor of private respondents pursuant to RA No. 6657 covering the subject parcel of land under TCT No. 5-7205 [sic] (T-54199) of the Registry of Deeds for the Province of Oriental Mindoro, in the name of Luis Luna, et. al.,
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> 2. Upholding and affirming the classification of the subject parcel of land into residential, commercial and institutional uses pursuant to RA No. 2264 (Autonomy Act of 1959) and the Local Government Code of 1991;
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> 3. Declaring the farmholding in question outside the purview of Republic Act No. 6657;
>
> x x x x[8]

The DARAB found that petitioners' property is exempt from the CARP as it has been reclassified as non-agricultural prior to the effectivity of Republic Act (RA) No. 6657. According to the DARAB, the records of the case indicate that subject parcel of land was classified as within the

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7 *Rollo*, p. 66, CA Decision.

8 DAR Records, Folder No. 3, pp. 566-567. DARAB Calapan Decision dated 26 August 1999.

residential, commercial and industrial zone by the *Sangguniang Bayan* of Calapan, Oriental Mindoro through Resolution No. 139, Series of 1981, enacted on 14 April 1981 as Municipal Ordinance No. 21. Moreover, the Office of the City Assessor has also classified the property as residential, commercial and industrial in use under the tax declaration covering the same. Finally, the Office of the Deputized Zoning Administrator, Urban Planning and Development Office, Calapan City, issued a Certification on 25 September 1998 stating that "under Article III, Section 3, No. 7 of Resolution No. 139, Municipal Ordinance No. 21, Series of 1981, areas covered by this [sic] provisions has [sic] been declared as Light Intensity Industrial Zone prior to the approval of RA 6657 x x x."[9]

The DARAB cited Department of Justice (DOJ) Opinion No. 44, Series of 1990, which provides that a parcel of land is considered non-agricultural and, therefore, beyond the coverage of the CARP, if it had been classified as residential, commercial, or industrial in the city or municipality where the Land Use Plan or zoning ordinance has been approved by the Housing and Land Use Regulatory Board (HLURB) before 15 June 1988, the date of effectivity of RA No. 6657. The aforementioned Opinion of the DOJ further states that all lands falling under this category, that is, lands already classified as commercial, industrial or residential, before 15 June 1988 no longer need any conversion clearance from the DAR.[10]

Aggrieved, respondents appealed to the DARAB Central Office.

The Ruling of the DARAB Central Office

The Central Office of the DARAB found that its local office in

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9 Id. at 564-565.
10 Id. at 564.

Calapan City erred in declaring petitioners' property outside the coverage of the CARP by relying solely on the assertion of the landowners that the land had already been reclassified from agricultural to non-agricultural prior to 15 June 1988.[11]

The DARAB held that the local Adjudicator misconstrued DOJ Opinion No. 44, Series of 1990 and, in the process, overlooked DAR Administrative Order (AO) No. 2, Series of 1994 which provides the grounds upon which CLOAs may be cancelled, among which is that the land is found to be exempt or excluded from CARP coverage or is to be part of the landowner's retained area as determined by the Secretary of Agrarian Reform or his authorized representative. Thus, the DARAB concluded, the issue of whether or not petitioners' land is indeed exempt from CARP coverage is still an administrative matter to be determined exclusively by the DAR Secretary or his authorized representative. In short, an exemption clearance from the DAR is still required. In this connection, DAR AO No. 6 was issued on 27 May 1994 setting down the guidelines in the issuance of exemption clearance based on Section 3(c) of RA No. 6657 and DOJ Opinion No. 44, Series of 1990. Pursuant thereto, "[a]ny landowner or his duly authorized representative whose lands are covered by DOJ Opinion No. 44-S-1990, and desires to have an exemption clearance from the DAR, should file the application with the Regional Office of the DAR where the land is located."[12] (Underlining omitted)

Accordingly, the DARAB set aside the Decision dated 26 August 1999 of the DARAB Calapan City for lack of jurisdiction and referred[13] the case to the Regional Office of DAR Region IV for final determination as to

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11 Id., Folder No. 6, p. 71. DARAB Central Office Decision.

12 Id. at 70-71.

13 The records of this case are bereft of any evidence showing that the case was referred to the DAR Region IV in compliance with the directive of the DARAB Central Office.

whether the land covered by TCT No. J-7205 (T-54199) in the names of Luis Luna, et al. is exempt from CARP coverage.[14]

In an apparent response to the above ruling of the DARAB holding that petitioners still need an exemption clearance from the DAR, petitioners filed an application for exemption from CARP coverage of subject land.

The Ruling of the DAR
(On Petitioners' Application for Exemption from CARP coverage)

In an Order dated 16 December 2003, then DAR Secretary Roberto M. Pagdanganan (Pagdanganan) granted petitioners' application for exemption based on the following findings:

> In a joint ocular inspection and investigation conducted by the representatives of the [Municipal Agrarian Reform Office] MARO, PARO and [Regional Center for Land Use Policy, Planning and Implementation] RCLUPPI on September 18 2003, disclosed the following findings:
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> 1. The documents (HLURB and [Deputized Zoning Administrator] DZA Certifications) show that the whole 158 hectares is exempted from the coverage of RA 6657;
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> 2. It is not irrigated;
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> 3. The area where subject property is located can be considered as already urbanizing; and
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> 4. The topography is generally flat and the property is traversed by a concrete highway hence accessible to all means of land transportation.
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> x x x x
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> DOJ Opinion No. 44, Series of 1990 and the case of Natalia Realty vs. Department of Agrarian Reform (12 August 1993/225 SCRA 278) opines (sic) that with respect to the conversion of agricultural lands covered by RA No. 6657 to non-agricultural uses, the authority of the Department of Agrarian Reform to approve such conversion maybe [sic] exercised from the date of its effectivity on 15 June 1988. Thus, all lands

[14] DAR Records, Folder No. 6, p. 69.

> that are already classified as commercial, industrial or residential before 15 June 1988 no longer need any conversion clearance. Moreover, Republic Act No. 6657 or the Comprehensive Agrarian Reform Law (CARL), Section 3, Paragraph (c) defines "agricultural land" as referring to "land devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential, commercial or industrial land." The case before this Office clearly reveals that the subject property is not within the agricultural zone prior to 15 June 1988.
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> The subject property has been zoned as light-industrial prior to the enactment of the Comprehensive Agrarian Reform Program as shown by the various certifications issued by the HLURB[15] and CPDC of Calapan City, Mindoro stating that the subject properties were reclassified to light-industrial zone by the City of Calapan, Mindoro and approved by the Human Settlements Regulatory Commission (now HLURB) per Resolution No. R-39-04 on 31 July 1980.
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> In view of the foregoing, this Office finds the application to have fully complied with all the documentary requirements for exemption set forth under DAR A.O. 6 Series of 1994 guidelines. x x x.[16]

The application for exemption was, therefore, granted subject to the condition, among others, that disturbance compensation shall be paid to affected tenants, farm workers, or bona fide occupants of the land.[17]

Predictably, respondents filed a motion for reconsideration of the Order of exemption.

The Ruling of the DAR
(On Respondents' Motion for Reconsideration)

In a Resolution dated 15 June 2004, former DAR Officer-in-Charge (OIC)-Secretary Jose Mari B. Ponce (Ponce) granted respondents' motion for reconsideration based on the following considerations:

> Resolution No. R-39-4 Series of 1980 of the then Municipality of

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15 Should be HUDCC (Housing and Urban Development Coordinating Council). See *Rollo*, p. 218, No. 6 of Order of Sec. Pagdanganan and p. 468, Folder No. 2, DAR Records.

16 *Rollo*, pp. 218-220.

17 Id. at 220.

> Calapan as conditionally approved by Human Settlement Regulatory Commission (now HLURB) did not categorically place the entire landholding for light-industrial. Section 1(f), Art. III of said resolution provided that:
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> > "(f) I-1 Zone – Light Industrial are the following: All lots 100 meters deep east and 200 meters deep west of Sto. Niño-Lumangbayan-Sapul Road from the Teachers' Village down to Barangay Guinobatan."
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> Resolution No. 151, City Ordinance No. 6 which declared the whole area of Barangay Guinobatan into residential, commercial and institutional uses was approved by the Calapan City Council only on 23 June 1998. Furthermore, the Comprehensive Land Use Plan and Zoning for Calapan City was approved by the Sangguniang Panlalawigan only in 2001 through Resolution No. 218, Series of 2001.
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> x x x x
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> x x x. Hence, in the case at hand, subject property is still within the ambit of the Comprehensive Agrarian Reform Program since the same were [sic] reclassified only in 1998 through Resolution No. 151, City Ordinance No. 6, and was approved by the Sangguniang Panlalawigan only in 2001 through Resolution No. 218, Series of 2001 long after the effectivity of RA 6657.[18]

Thus, the Order dated 16 December 2003 issued by DAR Secretary Pagdanganan was set aside, revoked and cancelled.[19]

Petitioners filed a motion for reconsideration of this Resolution.

The Ruling of the DAR
(On Petitioners' Motion for Reconsideration)

On 21 June 2006, the DAR, through then OIC Secretary Nasser C. Pangandaman (Pangandaman), issued an Order denying petitioners' motion for reconsideration on the following grounds:

> On 13 October 2005, the CLUPPI Inspection Team, accompanied by the Municipal Agrarian Reform Officer (MARO), Provincial Agrarian

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18 Id. at 227-228.
19 Id. at 229.

Reform Officer (PARO) and other DAR Field Personnel, conducted an ocular inspection of the subject landholding and noted the following:

- The landholding is composed of four (4) parcels embraced under TCT No. J-7205, with an area of 153.7713 hectares and located in Brgy. Guinobatan, Calapan City, Oriental Mindoro;

- The topography varies: Lot No. 612-D is flat, while Lot Nos. 612-A, 612-B and 612-C are flat to hilly;

- There were no billboards visible in the premises;

- There were grasses, some fruit trees and vegetable, but generally, planted with rice;

- Tenants/farmworkers/protestants were present during the inspection;

- A spring was seen in the area, which serves as a source of water for the riceland and irrigation canal;

- The provincial highway traverses the property;

- Surrounding areas are still agricultural in nature; and

- A newly constructed city hall was built in the riceland area covering a portion of five (5) hectares out of the eighty (80)-hectare riceland area.

x x x x

A careful perusal of the facts and circumstances show that the [petitioners] failed to offer substantial evidence that would warrant reversal of the Order.

Resolution No. R-39-4, Series of 1980 of the then Municipality of Calapan, conditionally approved by Human Settlement Regulatory Commission, did not categorically place the entire landholding under Light Industrial Zone. x x x.

x x x x

The Certification issued on 8 October 1998 by the Housing and Land Use Regulatory Board (HLURB)[20] proved that the property is still agricultural. The same provides that the landholding is within the Light Industrial Zone (100 meters deep west and 200 meters deep east) of the Provincial Road and the rest is Agricultural Zone based on the Zoning

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[20] Should be Housing and Urban Development Coordinating Council. *See* page 468, Folder No. 2, DAR Records.

> Ordinance approved by HLURB Resolution No. R-9-34 dated 31 July 1980. It was re-classified into residential, commercial and institutional uses pursuant to Sangguniang Panlungsod Resolution No. 151, Ordinance No. 6 only on 23 June 1998. The 1981 Ordinance, albeit approved by the HLURB, did not automatically reclassify the land. Physical aspects of the landholding are actually agricultural as there are some fruit trees and generally, planted with rice. Also, the surrounding areas are apparently agricultural in usage.
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> On 11 January 2006, the Municipal Agrarian Reform Officer (MARO) submitted a report stating that the Light Industrial Zone which covers the fraction covering 100 meters deep west and 200 meters deep east along the provincial road traversing the property areas which were declared in the HLURB Certification dated 08 October 1998, were already covered by Presidential Decree No. 27. Thus, there was already a vested right over the property and can no longer be covered by an Application for Exemption Clearance.[21]

The Order dated 15 June 2004 granting the motion for reconsideration filed by the farmer-beneficiaries was, therefore, affirmed *in toto*.

Petitioners, consequently, filed an appeal before the Office of the President.

The Ruling of the Office of the President

In its Decision dated 15 December 2006, the Office of the President found petitioners' appeal impressed with merit. It quoted with approval the findings and conclusions of former DAR Secretary Pagdanganan in his Order of 16 December 2003.[22]

According to the Office of the President, contrary to the findings and conclusions of the DAR in its Resolution dated 15 June 2004, the area where subject property is situated was really intended to be classified, not as agricultural, as in fact it was declared as residential, commercial and

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21 *Rollo*, pp. 243-245.
22 Id. at 250-251.

institutional in 1998.[23]

Moreover, supervening events have transpired such that subjecting the property to CARP coverage would already be inappropriate under the circumstances. The *Sangguniang Panlungsod* approved City Ordinance No. 6, Resolution No. 151, declaring the whole area of *Barangay* Guinobatan into a residential, commercial and industrial zone on 23 June 1998. The Notice of Acquisition and Land Valuation covering 100.2856 hectares out of the 158.77 hectares total land area of the property was issued by the DAR only on 20 August 1998. On 25 September 1998, a Certification was issued by the City Planning and Development Officer/Deputized Zoning Administrator, classifying subject property as within the Light Intensity Industrial Zone based on *Sangguniang Bayan* Resolution No. 139, Municipal Ordinance No. 21, Series of 1981, Section 3 of RA 6657, DOJ Opinion No. 44, Series of 1990 and *Sangguniang Panlungsod* Ordinance No. 6, Series of 1998. The application for exemption from CARP coverage filed by petitioners was initially granted by the DAR in 2003. The Certificate of Zoning Classification dated 18 December 2003 issued by the Zoning and Land Use Division of the Urban Planning and Development Department classifies the subject property as an urban Development Zone, based on City Resolution No. 231, Ordinance No. 4, Series of 1999 and *Sangguniang Panlalawigan* Resolution No. 218, Series of 2001.[24]

The Office of the President further held that from the time portions of subject property were declared to be within the Light Intensity Industrial Zone in 2003, it was never established that it had been devoted to agricultural purposes. Besides, the confirmation of its falling within the residential, commercial and industrial zone was ahead of the Notice of

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[23] Id. at 251.
[24] Id. at 252.

Acquisition. It would not be proper to subject a residential, commercial and industrial property to CARP anymore.[25]

In conclusion, the Office of the President declared that the 16 December 2003 Order of the DAR is more in accord with the facts and law relevant to the case. Hence, it set aside, revoked and cancelled the Resolution and Order, dated 15 June 2004 and 21 June 2006, respectively, of former DAR OIC-Secretaries Ponce and Pangandaman and reinstated the Order dated 16 December 2003 of Secretary Pagdanganan.[26]

The motion for reconsideration and second motion for reconsideration of respondents were respectively denied by the Office of the President in a Resolution[27] dated 12 June 2007 and an Order[28] dated 13 September 2007.

Respondents then appealed to the CA.

The Ruling of the Court of Appeals

In a Decision dated 13 March 2009, the CA granted the appeal based on a finding that the ruling of the Office of the President is not supported by substantial evidence.[29]

According to the CA, it is clear from the 1981 Ordinance of the *Sangguniang Bayan* of Calapan that only those lots 100 meters deep west and 200 meters deep east of the Sto. Niño-Lumangbayan-Sapul Road from the Teachers' Village Subdivision to *Barangay* Guinobatan, and not the entire *Barangay* Guinobatan, was classified into light intensity industrial

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25 Id.
26 Id. at 253.
27 Id. at 263-267.
28 Id. at 269-270.
29 Id. at 81.

zone. If the intention were to classify the entire *Barangay* Guinobatan into a light intensity industrial zone, then the 1981 Ordinance should have provided so, instead of limiting the areas so classified based on the reference points of the lots that would be affected thereby.[30]

Citing the case of *Natalia Realty, Inc. v. Department of Agrarian Reform*,[31] wherein it was held that lands not devoted to agricultural activity, including lands previously converted to non-agricultural uses by government agencies other than the DAR prior to the effectivity of the CARL, are outside the coverage of the CARL, the Court of Appeals ruled that in this case, there is no showing that subject property was in fact included in the classification of light intensity industrial zone prior to 15 June 1988, the date of effectivity of the CARL.[32]

The CA further held that the fact that the *Sangguniang Panlungsod* of the City of Calapan later on enacted Resolution No. 151 as City Ordinance No. 6 on 23 June 1998, declaring the whole area of *Barangay* Guinobatan as residential, commercial and institutional areas and site of the new City Government Center for the City of Calapan does not automatically convert the property into a non-agricultural land exempt from the coverage of the agrarian law. It bears stressing that the 1998 Ordinance was enacted after the effectivity of the CARL and, in order to be exempt from CARP coverage, the land must have been classified as industrial/residential before 15 June 1988.[33]

The CA likewise cited with approval the findings and conclusions of then DAR OIC-Secretaries Ponce and Pangandaman in their respective

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30 Id. at 84.
31 Citations omitted.
32 *Rollo*, pp. 84-85.
33 Id. at 85.

decisions and concluded that the Office of the President gravely erred when it ignored the findings in the 15 June 2004 Resolution and 21 June 2006 Order of the DAR. Said the CA:

> x x x [The Office of the President] cannot simply brush aside the DAR's pronouncements regarding the status of the subject property as not exempt from CARP coverage considering that the DAR has unquestionable technical expertise on these matters. Factual findings of administrative agencies are generally accorded respect and even finality by this Court, if such findings are supported by substantial evidence, a situation that obtains in this case. The factual findings of the Secretary of Agrarian Reform who, by reason of his official position, has acquired expertise in specific matters within his jurisdiction, deserve full respect and, without justifiable reason, ought not to be altered, modified or reversed.[34]

Thus, the Decision dated 15 December 2006, Resolution dated 12 June 2007, and Order dated 13 September 2007 of the Office of the President were reversed and set aside. The Resolution dated 15 June 2004 of former DAR OIC-Secretary Ponce and the Order dated 21 June 2006 of then DAR OIC-Secretary Pangandaman were reinstated.

Hence, this petition for review wherein petitioners seek the reversal of the aforementioned decision on the ground, among others, that the Honorable Court of Appeals gravely erred in holding that the Decision dated 15 December 2006 of the Office of the President is not supported by substantial evidence.[35]

The Issue

The core issue for resolution is whether the land subject of this case had been reclassified as non-agricultural as early as 1981, that is, prior to the effectivity of the CARL and, therefore, exempt from its coverage.

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34 Id. at 86.
35 Id. at 24.

Our Ruling

At the outset, it must be pointed out that the determination of the issue presented in this case requires a review of the factual findings of the DAR, of the Office of the President and of the CA.

It is well settled that in a petition for review on *certiorari* under Rule 45 of the Rules of Court, only questions of law may be raised.[36] This Court, in numerous instances, has had occasion to explain that it is not its function to analyze or weigh evidence all over again.[37] As a rule, the Court respects the factual findings of the CA and of quasi-judicial agencies like the DAR, giving them a certain measure of finality.[38] There are, however, recognized exceptions to this rule, one of which is when the findings of fact are conflicting.

The records of this case show that each of the agencies which rendered a ruling in this case – from the DARAB local office to the CA – arrived at different findings and conclusions, with each body overturning the decision of the one before it. Thus, due to the divergence of the findings of the DARAB local office on the one hand, and the DARAB Central Office on the other, and considering the conflicting findings of former DAR Secretaries and the disparity between the findings of fact of the Office of the President and of the CA, we are constrained to re-examine the facts of this case based on the evidence presented by both parties.

After an assiduous review of the records of this case, this Court concludes that petitioners' land is outside the coverage of the agrarian

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36 *Pasong Bayabas Farmers Association, Inc. v. Court of Appeals*, 473 Phil. 64, 90 (2004) citing *Calvo v. Vergara*, 372 SCRA 650 (2001).

37 *Solmayor v. Arroyo*, 520 Phil. 854, 871 (2006).

38 Id. citing *Orcino v. Civil Service Commission*, G.R. No. 92869, 18 October 1990, 190 SCRA 815, 819.

reform program.

At the core of the present controversy is Resolution No. 139, later on enacted as Ordinance No. 21, series of 1981 by the *Sangguniang Bayan* of Calapan, Oriental Mindoro at its regular session on 14 April 1981 and subsequently amended at its special session of 20 October 1981.[39] Ordinance No. 21 revised the comprehensive zoning regulations of the then Municipality of Calapan. Article III, Section 3, No. 7 of the ordinance provides:

> I-1 Zone
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> Light intensity industrial zone are the following:
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> All lots 100 meters deep west and 200 meters deep east of Sto. Niño-Lumangbayan-Sapul Road from the Teachers' Village Subdivision to Barangay Guinobatan.[40]

Petitioners maintain that their landholding falls within the area classified as light intensity industrial zone, as specified in the afore-quoted provision of the ordinance. Respondents, on the other hand, insist otherwise. The settlement of this issue is crucial in determining whether the subject landholding is within or outside the coverage of the CARL.

Section 4 of RA No. 6657 states that the coverage of the CARL is as follows:

> SEC. 4. Scope. – The Comprehensive Agrarian Reform Law of 1989 shall cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture.
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> More specifically, the following lands are covered by the Comprehensive Agrarian Reform Program:

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39 *Rollo*, p. 151.

40 Id. at 112.

> (a) All alienable and disposable lands of the public domain devoted to or suitable for agriculture. x x x;
>
> (b) All lands of the public domain in excess of the specific limits as determined by Congress in the preceding paragraph;
>
> **(c) All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.** (Emphasis supplied)

"Agricultural land" is defined under Section 3(c) of the CARL as that which is "devoted to agricultural activity x x x and not classified as mineral, forest, residential, commercial or industrial land."

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[41] of the CARL.[42] Thus:

> 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 supplied)[43]

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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41 Sec. 49. *Rules and regulations* **–**The PARC and the DAR shall have the power to issue rules and regulations, whether substantive or procedural, to carry out the objects and purposes of this Act. Said rules shall take effect ten (10) days after publication in two (2) national newspapers of general circulation.

42 *Junio v. Secretary Garilao*, 503 Phil. 154, 162.

43 Id. at 163.

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.[44] Section 3[45] 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.[46] 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.[47] 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.[48]

The regulation by local legislatures of land use in their respective territorial jurisdiction through zoning and reclassification is an exercise of

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44 *Heirs of Dr. Jose Deleste v. Land Bank of the Philippines*, *supra* note 1 at 375.

45 *Power to adopt zoning and planning ordinances*. – Any provision of law to the contrary notwithstanding, Municipal Boards or City Councils in cities, and Municipal Councils in municipalities are hereby authorized to adopt zoning and subdivision ordinances or regulations for their respective cities and municipalities subject to the approval of the City Mayor or Municipal Mayor, as the case may be. Cities and municipalities may, however, consult the National Planning Commission on matters pertaining to planning and zoning.

46 *Pasong Bayabas Farmers Association, Inc. v. Court of Appeals*, *supra* note 36 at 94.

47 *Buklod nang Magbubukid sa Lupaing Ramos, Inc. v. E.M. Ramos and Sons, Inc.*, G.R. No. 131481, 16 March 2011, 645 SCRA 401, 432.

48 Id. at 433.

police power.[49] 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.[50] 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.[51]

Ordinance No. 21 was based on the Development Plan for the then Municipality of Calapan and on the Zone District Plan prepared by its Municipal Development Staff. The Plans were adopted by the *Sangguniang Bayan* of Calapan through a Resolution on 14 April 1980.[52] The same were granted approval by the HLURB through Resolution No. R-39-4, series of 1980, dated 31 July 1980.[53]

Based on the foregoing, there is no doubt that Ordinance No. 21 validly reclassified the area identified therein as "100 meters deep west and 200 meters deep east of Sto. Niño-Lumangbayan-Sapul Road from the Teachers' Village Subdivision to *Barangay* Guinobatan" into a light

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49 Id. at 434.

50 *Social Justice Society (SJS) v. Atienza, Jr.*, G.R. No. 156052, Resolution on the Motion for Reconsideration, 13 February 2008 545 SCRA 92, 140 citing *Tan Chat v. Municipality of Iloilo*, 60 Phil. 465, 473 (1934).

51 *Heirs of Dr. Jose Deleste v. Land Bank of the Philippines*, *supra* note 1.

52 *Rollo*, p. 103.

53 DAR Records, Folder No. 3, pp. 495 and 499.

intensity industrial zone, making the same exempt from CARL coverage.

The next – and more crucial – question to be settled now is whether or not petitioners' landholding falls within the reclassified zone, thereby taking it out of the coverage of the CARL.

In resolving the issue in the affirmative, former DAR Secretary Pagdanganan relied primarily on the respective Certifications issued by the Office of the Deputized Zoning Administrator, Urban Planning and Development Department of Calapan City[54] and by the Housing and Urban Development Coordinating Council (HUDCC),[55] and considered subject property as having "been zoned as light-industrial prior to the enactment of the Comprehensive Agrarian Reform Program." Secretary Pagdanganan consequently granted petitioners' application for exemption pursuant to DAR AO No. 6, Series of 1994.[56] This issuance was released by the DAR following DOJ Opinion No. 44, Series of 1990,[57] wherein the Secretary of the DOJ opined that "with respect to conversions of agricultural lands covered by RA 6657 to non-agricultural uses, the authority of the DAR to approve such conversions may be exercised from the date of the law's effectivity on June 15, 1998." Thus, AO No. 6 states that "all lands that [were] already classified as commercial, industrial or residential before 15 June 1988 no longer need any conversion clearance." Designed "to streamline the issuance of exemption clearances, based on DOJ Opinion No. 44," the AO laid down the procedure and guidelines for the issuance of

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54 Dated 25 September 1998; Annex "H," Petition for Cancellation of Certificates of Land Ownership Award, Revocation of Notice of Valuation and Acquisition and Upholding and Affirming the Classification of Subject Property and Declaring the same Outside the Purview of R.A. 6657 With Prayer for Preliminary Mandatory Injunction and/or Temporary Restraining Order. Id., Folder No. 1, p. 293.

55 Dated 31 July 1980. Id. Folder No. 3, p. 495.

56 Dated 27 May 1994.

57 Dated 16 March 1990.

exemption clearances[58] for landowners whose lands are covered by DOJ Opinion No. 44, Series of 1990 and desire to obtain an exemption clearance from the DAR. Such exemption clearance does not mean that the DAR Secretary is exempting the land from CARL coverage, with the implication that the land was previously covered; it simply means that the CARL itself has, from the start, excluded the land from CARL coverage, and the DAR Secretary is only affirming such fact.

The exemption order of Secretary Pagdanganan found petitioners' application to have fully complied with the documentary requirements for exemption set forth under AO No. 6, the more important of which are the Certifications from the Deputized Zoning Administrator and the HUDCC stating that petitioners' property falls within the Light Intensity Industrial Zone of Calapan City.

Incidentally, what AO No. 6 requires is a certification from the HLURB. Although what petitioners submitted was a certification from the HUDCC, Secretary Pagdanganan apparently considered the same as sufficient compliance with the requirements of AO No. 6 and in fact never referred to the certification as coming from the HUDCC but was consistently identified as "certification from the HLURB" throughout his order. We see nothing irregular in this considering that the HLURB is an agency under the HUDCC[59] and especially since the Certification of the HUDCC is itself "based on the Zoning Ordinance approval by HLURB Resolution No. R-39-4 dated 31 July 1980."

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58 *Junio v. Secretary Garilao, supra* note 42.

59 Executive Order No. 90 (1986) renamed the Human Settlements Regulatory Commission as the Housing and Land Use Regulatory Board (HLURB) and was designated as the regulatory body for housing and land development under the Housing and Urban Development Coordinating Council (HUDCC). http://hlurb.gov.ph/about-us/ (6 December 2012).

In contrast to the exemption order issued by Secretary Pagdanganan, the resolution and order, respectively, of OIC Secretaries Ponce and Pangandaman – which the CA cited with approval – relied mainly on certifications declaring that the property is irrigated or has a slope of below 18% and on an ocular inspection report stating that the property is generally covered with rice and that the surrounding areas are still agricultural, as bases for their conclusion that subject land is agricultural and, therefore, covered by the CARL. These matters, however, no longer bear any significance in the light of the certifications of the Deputized Zoning Administrator and the HUDCC testifying to the non-agricultural nature of the landholding in question.

The CARL, as amended, is unequivocal that only lands devoted to agricultural activity and not classified as mineral, forest, residential, commercial or industrial land are within its scope. Thus, the slope of the land or the fact of its being irrigated or non-irrigated becomes material only if the land is agricultural, for purposes of exempting the same from the coverage of the agrarian law. However, if the land is non-agricultural – as is the case of the property here under consideration – the character and topography of the land lose significance.

It must likewise be emphasized that, since zoning ordinances are based not only on the present, but also on the future projection of needs of a local government unit, when a zoning ordinance is passed, the local legislative council obviously takes into consideration the prevailing conditions in the area where the land subject of reclassification is situated. Accordingly, when the then *Sangguniang Bayan* of Calapan enacted Ordinance No. 21, there is reasonable ground to believe that the district subject of the reclassification, including its environs, was already developing. Thus, as found by the Office of the President: “we find that the

area where subject property is situated was really intended to be classified not as agricultural, as in fact it was declared as a residential, commercial and institutional in 1998."[60]

The CA, agreeing with the finding of OIC Secretary Pangandaman, and quoting from the OIC Secretary's order, held that the Certification of the HUDCC "proved that the property is still agricultural."

A careful scrutiny of the aforementioned certification reveals, however, that contrary to the findings of OIC Secretary Pangandaman and the CA, the certification, in fact, proves that petitioners' land falls within the area classified as light intensity industrial zone. Quoted hereunder are the pertinent portions of the certification:

> This is to certify that a parcel of land with a total area of 1,587,713 square meters and situated at Brgy. Guinobatan, Calapan City, Oriental Mindoro, **a portion of which is approximately 1,537,713 square meters** is applied for Zoning Certification as shown in the vicinity map submitted by the applicant **appears to be within the LIGHT INDUSTRIAL ZONE** (100 meters deep west and 200 meters deep east) of the Provincial Road and the rest is AGRICULTURAL ZONE based on the Zoning Ordinance approval by HLURB Resolution No. R-39-4 dated 31 July 1980. (Emphasis supplied)
>
> Submitted Transfer Certificate of Title described as:
>
> | TCT NO. | LOT NO. | AREA (sq.m.) | REGISTERED OWNER |
> |---|---|---|---|
> | J-7205 | 612 | 1,531,713 (sic) | Luis A. Luna, et al. |
>
> x x x x[61]

Based on the foregoing, 1,537,713 square meters (sq. ms.) out of the 1,587,713 sq. ms. total area of petitioners' property have been zoned as light industrial and only 50,000 sq. ms. apparently remain agricultural. Considering, however, the certification of the Deputized Zoning Administrator of the Urban Planning and Development Department of

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60 *Rollo*, p. 251.

61 DAR Records, Folder No. 2, p. 468.

Calapan City, this Court finds and so holds that the entire landholding has been classified as light intensity industrial zone pursuant to Ordinance No. 21.

The court is inclined to give more evidentiary weight to the certification of the zoning administrator being the officer having jurisdiction over the area where the land in question is situated and is, therefore, more familiar with the property in issue. Besides, this certification carried the presumption of regularity in its issuance[62] and respondents have the burden of overcoming this presumption. Respondents, however, failed to present any evidence to rebut that presumption.

Accordingly, since specialized agencies, such as the HUDCC and the Office of the Deputized Zoning Administrator tasked to determine the classification of parcels of land have already certified that the subject land is industrial, the Court must accord such pronouncements great respect, if not finality, in the absence of evidence to the contrary.[63]

Respondents insist that petitioners' landholding is not included in the light intensity industrial zone under Ordinance No. 21, yet, they never submitted any evidence to support their contention. No maps, such as a zoning map or a land use map, clearly showing that petitioners' property lies outside the reclassified area were presented by respondents. Instead, what they presented were: (1) a certification from the Provincial Irrigation Manager stating that several of the respondents were listed as beneficiaries of the Calapan Dam Irrigators' Association; (2) a certification from the Municipal Agriculturist of Calapan declaring that the property is irrigated; (3) photographs of the irrigation system covering the subject landholding;

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62 *Junio v. Secretary Garilao, supra* note 42 at 167-168.

63 *Solmayor v. Arroyo, supra* note 37 at 875.

(4) a letter from the Chief of the Land Management Service of the DENR Region IV stating that the entire 158.77 hectares of the land in question falls under 18% slope;[64] (5) photographs showing that the property is generally planted with rice;[65] and other documents which, however, do not prove nor support their claim that the property has not been reclassified into non-agricultural use.

Respondents, however, did submit in the proceedings before then DAR OIC Secretary Ponce an "approved survey plan" commissioned by the DAR allegedly "showing that only about 20 hectares or so would be covered by" Ordinance No. 21. A copy of this plan was nevertheless not attached to the records of this case thereby making it impossible for this Court to examine the same and draw its own conclusions therefrom.

At any rate, as already adverted to above, the certification of the deputized zoning administrator carries more weight by reason of his special knowledge and expertise and the matter under consideration being under his jurisdiction and competence. He is, therefore, in a better position to attest to the classification of the property in question.

The best evidence respondents could have presented was a map showing the metes and bounds and definite delineations of the subject land. Since respondents failed to do so, this Court is bound to rely on the certifications of the appropriate government agencies with recognized expertise on the matter of land classification. Thus, through the certifications issued by the deputized zoning administrator of Calapan City and by the HUDCC, petitioners were able to positively establish that their property is no longer agricultural at the time the CARL took effect and, therefore, cannot be subjected to agrarian reform.

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64 *Rollo*, pp. 225-226.

65 CA *rollo*, pp. 506-517.

A final note: In his Order dated 21 June 2006, then OIC Secretary Pangandaman made mention of a "report" issued by the MARO of Calapan City claiming that the area covering 100 meters deep west and 200 meters deep east along the provincial road traversing the property which was declared in the HUDCC certification dated 8 October 1998 as light industrial has already been covered by Presidential Decree No. 27.[66] Thus, Secretary Pangandaman concluded, there were already vested rights over the property and can no longer be covered by an application for exemption.

The records of this case, however, do not contain a copy of the aforementioned report. Thus, the Court is unable to scrutinize the same and make a definite ruling thereon.

In any case, an examination of the records of this case show that the earliest document evidencing coverage under the CARP of the land subject of this dispute is the published Notice of Land Valuation and Acquisition dated 20 August 1998. Prior thereto, all documents in connection with the compulsory acquisition of land for agrarian reform pertain to land covered by TCT No. T-18192 with an area of 161 hectares, purportedly in the name of Mariquita A. Luna .[67] Clearly, this land is different from the land subject of this case which is covered by TCT No. J-7205 (T-54199). It may, therefore, be reasonably presumed that the report adverted to refers to the land covered by TCT No. T-18192 and not to the property under consideration herein.

The Office of the President was, consequently, correct when it revoked the resolution and order, respectively, of former OIC Secretaries Ponce and Pangandaman and declared that the Order of then Secretary

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66 The Tenants' Emancipation Decree, dated 21 October 1972.

67 *See* DAR Records, Folder No. 2, pp. 304 and 394.

Pagdanganan was more in accord with the facts and the law applicable to the case at bar. Thus, the CA clearly erred when it held that the findings and conclusion of the Office of the President are not supported by substantial evidence.

WHEREFORE, the Court **GRANTS** the petition and **REVERSES** and **SETS ASIDE** the Decision dated 13 March 2009 and the Resolution dated 10 June 2009 of the Court of Appeals in CA-G.R. SP. No. 101114. The Decision of the Office of the President dated 15 December 2006 is hereby **REINSTATED**.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

ESTELLA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were 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, it is hereby certified that the conclusions in the above Decision were 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