Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

CONRADA O. ALMAGRO, Petitioner,	**G.R. No. 179685**
	Present:
- versus -	VELASCO, JR., *J.*, Chairperson, PERALTA, ABAD, MENDOZA, and LEONEN, *JJ.*
SPS. MANUEL AMAYA, SR. and LUCILA MERCADO, JESUS MERCADO, SR., and RICARDO MERCADO, Respondents.	Promulgated: JUN 19 2013

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DECISION

VELASCO, JR., *J.*:

This Petition for Review on Certiorari under Rule 45 assails and seeks to set aside the September 29, 2006 Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 00111 and its September 11, 2007 Resolution[2] denying petitioner's motion for reconsideration. The assailed issuances effectively affirmed the October 19, 2004 Decision of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB Case Nos. 6858-59, which in turn reversed the Decision of the Regional Agrarian Reform Adjudicator (RARAD) in consolidated DARAB Case Nos. VII-140-C-93 and VII-C-90-95 declaring the property in question as outside the coverage of the Operation Land Transfer (OLT) scheme.

Central to this controversy is a parcel of land, denominated as Lot No. 13333, with an area of 6,000 square meters, more or less, located in Dalaguete, Cebu and covered by Tax Declaration No. 21-14946. Purchased in 1960[3] by petitioner Conrada Almagro (Conrada), Lot No. 13333 is bordered by a river in the north, a highway in the south, a public market in the east, and a privately-owned lot in the west. About 738 square meters of Lot No. 13333 is of residential-commercial use.

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[1] *Rollo*, pp. 31-39. Penned by Executive Justice Arsenio J. Magpale and concurred in by Associate Justices Marlene Gonzales-Sison and Antonio L. Villamor.

[2] Id. at 41-42.

[3] CA *rollo*, p. 38.

Antecedent Facts

In 1976, Conrada allowed respondent spouses Manuel Amaya, Sr. and Lucila Mercado (Sps. Amaya) to construct a house on a 46-square meter portion of Lot No. 13333 on the condition that no additional improvements of such nature requiring additional lot space shall be introduced and that they shall leave the area upon a 90-day notice. A decade later, Conrada asked the Amayas to vacate. Instead of heeding the vacation demand, the Amayas, in a virtual show of defiance, built permanent improvements on their house, the new structures eating an additional 48 square meters of land space. On November 3, 1993 Conrada filed a Complaint against the Sps. Amaya before the DARAB-Region 7 for "Ejectment, Payment of Rentals with Damages," docketed as DARAB Case No. VII-140-C-93.

In their Answer, the Amayas asserted possessory rights over the area on which their house stands and a portion of subject Lot No. 13333 they are cultivating, being, so they claimed, monthly-rental paying tenant-farmers. Said portion, the Amayas added, has been placed under OLT pursuant to Presidential Decree No. (PD) 27.[4]

Obviously disturbed by the Amayas' allegations in their answer, Conrada posthaste repaired to different government offices in Cebu to verify. From her inquiries, Conrada learned that herein respondents Manuel Amaya, Sr. (Manuel), Jesus Mercado, Sr. (Jesus) and Ricardo Mercado (Ricardo) have made tenancy claims over an area allegedly planted to corn area each was tilling. To add to her woes, she discovered that Emancipation Patents (EPs) have been generated over portions of Lot No. 13333.

EP Nos. 176987, 176985 and 176986 covering 1,156, 2,479, and 1,167 square meters, respectively, were issued in favor of Manuel, Jesus and Ricardo, respectively, on February 17, 1995. Shortly thereafter, the corresponding original certificates of title (OCTs), i.e., OCT Nos. 6187,[5] 6188[6] and 6189[7] issued. As thus surveyed and partly titled, what was once the subject 6,000-square meter Lot 13333 has now the following ownership profile:

EP/OCT Holder	Patent No.	Title No.	Area
Manuel Amaya, Sr.	EP No. 176987	OCT No. 6189	1,156 sq. mtrs.
Jesus Mercado, Sr.	EP No. 176985	OCT No. 6187	2,479 sq. mtrs.
Ricardo Mercado	EP No. 176986	OCT No. 6188	1,167 sq. mtrs.
		Total Area	4,802 sq. mtrs.

[4] Issued on October 21, 1972, 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."

[5] CA *rollo*, pp. 56-58.

[6] Id. at 59-61.

[7] Id. at 62-64.

In sum, the DAR awarded a total of 4,802 square meters of the subject lot to Jesus, Ricardo and Manuel, leaving Conrada with 1,198 square meters, a 738-square meter portion of which is classified as residential-commercial.

On October 16, 1995, Conrada filed a petition also before DARAB-Region 7 this time against Manuel, Jesus and Ricardo, praying, in the main, for the cancellation of EPs, docketed as DARAB Case No. VII-C-90-95. Conrada would later amend her petition to include as additional respondents the DAR Regional Director in Cebu, the Provincial Agrarian Reform Officer and the Register of Deeds of Cebu. The gravamen of Conrada's gripe is that the subject lot has been primarily devoted to vegetables production and cultivation, not to corn or rice, thus, outside the ambit of the OLT under PD 27. And as a corollary, obviously having in mind a DAR issuance treating "material misrepresentation" as a ground for the cancellation of an EP, she ascribed bad faith and gross misrepresentation on respondents when they had themselves listed as farmer-beneficiaries under the OLT scheme when they fully knew for a fact that vegetables were the primary crops planted on their respected areas since October 1972. And even as she rued the issuance of the EPs, most especially in favor of Manuel who she depicted as unqualified to be a PD 27 farmer-beneficiary being a landowner himself, Conrada denied receiving compensation payment from private respondents from the time of the issuance of the EPs.

In their joint *Answer & Position Paper*,[8] private respondents asserted their status as qualified farmer-beneficiaries of the OLT scheme. Their nonpayment or remittance of a share of their harvest to Conrada was, as they argued, justified under DAR Memorandum Circular (MC) No. 6, Series of 1978, which provided that once an agricultural land is placed under the OLT program, lease rentals otherwise due to a landowner may be paid to the Land Bank of the Philippines. Finally, private respondents averred, Conrada knew well of the OLT coverage of subject Lot No. 13333 as she in fact represented her siblings in their protest against the OLT coverage of their own landholdings in Dalaguete and Alcoy in 1989.

Ruling of the RARAD

In a joint Decision[9] dated June 10, 1997, RARAD Arnold C. Arrieta––on the issue of the propriety of bringing in the subject property within, or excluding it from, the coverage of the OLT and the implications of a determination, one way or another—found for Conrada, pertinently disposing as follows:

> WHEREFORE, in view of the foregoing, DECISION is hereby given as follows:
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> 1. Declaring the coverage of Lot 13333 under Operation Land Transfer improper;

[8] Id. at 71-76, dated July 11, 1996.
[9] Id. at 77-93.

> 2. Ordering the Register of Deeds of Cebu to cause the cancellation of E.P. No. 176987 covered by OCT No. 6187, E.P. No. 176986 covered by OCT No. 6188, issued in the name of (sic) of Manuel Amaya, Sr., Ricardo Mercado and Jesus Mercado, respectively;
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> 3. Ordering the Land Bank of the Philippines to turn over the amount of money paid (sic) private respondents to them in favor of Conrada Almagro;
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> 4. Dismissing the ejectment case filed by plaintiff against herein private respondents for lack of merit;
>
> 5. Ordering the MARO concerned to assist the parties in the execution of lease rentals on the subject landholdings.

RARAD Arrieta predicated his case disposition on the finding that the disputed portions of the subject lot are primarily devoted to vegetable cultivation, which, thus, brings them outside of OLT coverage. In substantiation, he cited and drew attention to the following documentary and testimonial evidence: (1) the Certifications issued by the Municipal Agrarian Reform Officer (MARO) and the Municipal Assessor of Dalaguete, Cebu dated September 27, 1995 and October 4, 1995, respectively, attesting that subject lot is primarily devoted to vegetables since 1972; (2) the parallel admission of respondents made in their January 29, 1996 Answer in DARAB Case No. VII-C-90-95; (3) respondent Manuel's December 17, 1996 affidavit stating that he raised vegetables during the *pangulilang* and *pang-enero* seasons, resorting to corn crops only during the *panuig* season; and (4) Manuel's testimony given in response to clarificatory questions propounded by the Hearing Officer on December 17, 1996 that the corn he planted on his claimed portion was only for his consumption.

Taking cognizance, however, of the agricultural nature of the disputed parcels and the existing land tenancy relation between the private respondent, on one hand, and Conrada, on the other, the RARAD declined to proceed with the prayed ouster of respondents from their respective landholdings. To the RARAD, respondents' act of stopping payment of land rental at some point was justified under DAR MC No. 6, Series of 1978, hence, cannot, under the premises, be invoked to justify an ouster move.

Respondent spouses, et al., appealed to the DARAB Proper.

Ruling of the DARAB

On October 19, 2004, in DARAB Case Nos. 6858-6859, DARAB issued a Decision upholding the validity of the issuance of the EPs to Manuel et al., thus effectively recognizing their tenurial rights over portions of Lot No. 13333. The *fallo* of the DARAB Decisions reads:

> WHEREFORE, premises considered, the assailed Decision is SET ASIDE and judgment is hereby rendered:

> 1.) **UPHOLDING the validity and efficacy of EP** Nos. 176987, 176986, and 176985 issued in the names of Manuel Amaya, Sr., Ricardo Mercado and Jesus Mercado, Sr. respectively;
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> 2.) DISMISSING the above-mentioned complaints filed against respondents-appellants for lack of merit; and
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> 3.) ORDERING the Land Bank of the Philippines to pay the complainant-appellee the full amount paid by the respondents-appellants.
>
> SO ORDERED.[10] (Emphasis added.)

From this adverse ruling, Conrada elevated the case to the CA.

Ruling of the CA

By Decision dated September 29, 2006, the CA affirmed that of the DARAB, thus:

> WHEREFORE, premises considered, the instant petition is DENIED, and the assailed Decision dated October 19, 2004 of the Department of Agrarian Reform Adjudication Board, Diliman, Quezon City in DARAB Cases Nos. 6858-6859 is hereby AFFIRMED.
>
> SO ORDERED.

Like the DARAB, the appellate court predicated its action on the following interacting premises: (1) Respondents did not, vis-à-vis their identification as OLT beneficiaries, commit an act constituting material misrepresentation, the issuance of an EP following as it does a "tedious process" involving the identification and classification of the land as well as the determination of the qualification of the farmer-beneficiaries; (2) Conrada has not, through her evidence, overturned the presumptive validity of the issuance of the EPs in question; and (3) Section 12(b) of PD 946 vests on the DAR Secretary the sole prerogative to identifying the land to be covered by PD 27. The CA wrote:

> Petitioner further contends that the DARAB totally ignored the evidence on record which preponderantly proved that vegetables have been and are still the principal crops planted on the litigated land.
>
> We are not persuaded.
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> The DARAB cited the [A.O.] no. 2, [s.] of 1994 of the DAR in the assailed decision to show that one of the grounds in the cancellation of an [EP] is the material misrepresentation in the agrarian reform beneficiaries' qualification as provided under RA 6657, P.D. No. 27 x x x. Contrary to the assertion of the petitioner, nowhere can it be read in the challenged decision that it said that under the provisions of [A.O] No. 2 x x x the [EPs] could no longer be challenged. What can be gleaned in the assailed judgment is that DARAB had not given credence to the allegation of the petitioner that 'respondents acted with evident bad faith x x x and with

[10] Id. at 29-30.

> gross misrepresentation when they allowed themselves to be identified and listed as alleged beneficiaries of [OLT], they themselves knowing fully well that their primary crops since October 21, 1972 x x x have been vegetables.' Stated differently, the DARAB had found that the petitioner had not sufficiently proven her allegation of bad faith x x x.
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> Also unmeritorious is the contention of petitioner that the evidence on record would prove that the land in controversy had been devoted to vegetable production and not to rice or corn, thus not covered under P.D. 27. The evidence alluded to by petitioner x x x could not sufficiently overcome the validity of the [EPs] issued to respondents. As aptly observed by the DARAB[,] the generation of these [EPs] went through tedious process x x x. The administrative identification and classification of the land as well as the determination of the qualification of the farmer-beneficiaries are **exclusively the functions of the Secretary of Agrarian Reform or his representative as provided under Section 12 (b) of P.D. No. 946** x x x.[11]

From the foregoing Decision, Conrada moved, but was denied reconsideration per the CA's equally assailed Resolution of September 11, 2007.

Hence, the instant petition.

The Issues

Petitioner contends: "The Honorable [CA] gravely erred in interpreting 'material misrepresentation' as provided for in Administrative Order No. 2 (AO 2), Series of 1994 of the [DAR] x x x."[12]

The underlying thrust of this petition turns on the critical issue of the propriety of placing portions of subject Lot No. 13333 under the coverage of PD 27, which in turn practically resolves itself into the question of whether or not said portions are primarily devoted to vegetable production, as petitioner insists or to corn production, as respondents assert.

The Court's Initial Actions

By Resolution of December 10, 2007, the Court directed respondents, through counsel, to submit their comment on the petition for review within ten (10) days from notice. Then came another resolution[13] requiring respondents' counsel of record, Atty. Brigido Pasilan Jr., to show cause why he should not be disciplinary dealt with for failing to file the adverted comment. Three successive resolutions dated February 9, 2009, September 9, 2009 and April 12, 2010 followed, each imposing a fine on Atty. Pasilan for non-submission of comment.[14] Eventually, the Court directed the

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[11] *Rollo*, pp. 36-37.

[12] Id. at 21. Original in uppercase.

[13] Id. at 48, Resolution dated July 28, 2008.

[14] Id. at 49, a fine of PhP 1,000 and imprisonment for five (5) days was imposed on Atty. Brigido Pasilan, Jr. per Resolution dated February 9, 2009.

National Bureau of Investigation (NBI) to arrest him.[15] As per the NBI's compliance[16] report, Atty. Pasilan had died as early as August 28, 2002. This development prompted the Court to directly notify respondents for them to submit their comment and to inform the Court of their new counsel, if any.[17] On March 14, 2011, the Court issued a Resolution considering respondents as having waived their right to submit their comment.[18] As it were, the lackadaisical attitude of respondents in not even bothering to inform this Court, and previously the CA, of the demise of their counsel has caused so much delay in the resolution of this case.

The Court's Ruling

We find the petition meritorious.

The issue raised is essentially factual in nature. Under Rule 45 of the Rules of Court, only questions and errors of law, not of fact, may be raised before the Court.[19] Not being a trier of facts, it is not the function of the Court to re-examine, winnow and weigh anew the respective sets of evidence of the parties. Corollary to this precept, but subject to well-defined exceptions,[20] is the rule that findings of fact of trial courts or the CA, when supported by substantial evidence on record, are conclusive and binding on the Court.[21] But for compelling reasons, such as when the factual findings of the trying court or body are in conflict with those of the appellate court, or there was a misapprehension of facts or when the inference drawn from the facts was manifestly mistaken,[22] this Court shall analyze or weigh the evidence again and if necessary reverse the factual findings of the courts *a quo*. This is precisely the situation obtaining in this case. The findings, on the one hand, of RARAD Arrieta and, those of the DARAB and the CA, on the other, relative to the appreciation of evidence adduced in hearings before RARAD Arrieta, are incompatible with each other.

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[15] Id. at 64-68, per Resolution and Order of Arrest and Commitment both dated September 15, 2010.

[16] Id. at 81-83, dated February 16, 2011.

[17] Id. at 96, Resolution dated June 15, 2011.

[18] Id. at 106, Resolution dated April 11, 2012.

[19] *Usero v. Court of Appeals*, G.R. No. 152115, January 26, 2005, 449 SCRA 352, 358.

[20] Recognized exceptions to the rule are: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellee and the appellant; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or (11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. See *Almendrala v. Ngo*, G.R. No. 142408, September 30, 2005, 471 SCRA 311, 322; *Langkaan Realty Development, Inc. v. United Coconut Planters Bank*, G.R. No. 139437, December 8, 2000, 347 SCRA 542; *Nokom v. National Labor Relations Commissions*, G.R. No. 140043, July 18, 2000, 336 SCRA 97; *Commissioner of Internal Revenue v. Embroidery and Garments Industries (Phils.), Inc.*, G.R. No. 96262, March 22, 1999, 305 SCRA 70; *Sta. Maria v. Court of Appeals*, G.R. No. 127549, January 28, 1998, 285 SCRA 351.

[21] *Almendrala v. Ngo*, G.R. No. 142408, September 30, 2005, 471 SCRA 311, 322.

[22] *Casol v. Purefoods Corporation*, G.R. No. 166550, September 22, 2005, 470 SCRA 585, 589.

Petitioner Conrada argues that the CA, in affirming the ruling of the DARAB, erred in not finding respondents guilty of "material misrepresentation" or of having acted with bad faith or fraudulently. Petitioner notes in this regard that respondents have themselves listed as agrarian reform beneficiaries of PD 27, through the OLT, knowing fully well that the disputed parcels were, since 1972, planted to vegetables as primary crop.

There is merit to the argument.

Material means that it is "of such a nature that knowledge of the item would affect a person's decision-making; significant; essential; relevant."[23] **Misrepresentation**, on the other hand, means "the act of making a false or misleading assertion about something, usually with the intent to deceive. The word denotes not just written or spoken words but also any other conduct that amounts to a false assertion."[24] A **material misrepresentation** is "a false statement to which a reasonable person would attach importance in deciding how to act in the transaction in question or to which the maker knows or has reason to know that the recipient attaches some importance."[25]

Fraud is deemed to comprise anything calculated to deceive, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust or confidence justly reposed, resulting in the damage to another or by which an undue and unconscionable advantage is taken of another.[26] It cannot be over-emphasized that fraud is a question of fact which cannot be presumed and must be proved by clear and convincing evidence by the party alleging fraud.[27] *Ei incumbit probation qui dicit, non que negat*, otherwise stated, "he who asserts, not he who denies, must prove."[28]

As aptly found by RARAD Arrieta, there is ample evidence showing that respondents, in their application for inclusion in the list of agrarian reform beneficiaries (ARBs) under PD 27 through the OLT, made misrepresentation as to their entitlement to certain rights under the decree. Respondents were in bad faith in obtaining the EPs due to their fraudulent misrepresentation on a material point in the application as ARBs of PD 27 through the OLT. In their *Answer & Position Paper* dated July 11, 1996 filed in connection with DARAB Case No. VII-C-90-95, respondents averred, among other things, that:

> 10. That respondents are by law qualified farmer – beneficiaries of Operation land Transfer (OLT for brevity) scheme. Their primary crop produce is corn, however on seasons when planting corn is not feasible,

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[23] BLACK'S LAW DICTIONARY 1066 (9th ed., 2009).
[24] Id. at 1091.
[25] Id.
[26] *Makati Sports Club, Inc. v. Cheng*, G.R. No. 178523, June 16, 2010, 621 SCRA 103, 118; citing *Chevron Philippines, Inc. v. Commissioner of the Bureau of Customs*, G.R. No. 178759, August 11, 2008, 561 SCRA 710.
[27] *Petron Corporation v. Commissioner of Internal Revenue*, G.R. No. 180385, July 28, 2010, 626 SCRA 100, 116.
[28] *Balanay v. Sandiganbayan*, G.R. No. 112924, October 20, 2000, 344 SCRA 1, 10.

> vegetable is substituted. When the respondents were identified as beneficiaries of OLT, their primary crop planted is corn, as evidenced by their BCLP form, made integral part of this Answer. The fact remains that at the time of the identification and coverage of the farmlot, the primary produce is corn. What transpired as use of the agricultural land after the coverage is immaterial, since OLT is a continuing coverage. As a matter of fact, Section 7 on "Priorities", Phase One of R.A. 6657, specifically identified "Rice and corn lands under Presidential Decree No. 27" shall be acquired and distributed within four (4) years from the effectivity of said Act.[29]

The evidence adduced during the hearing of the consolidated land cases before the office of the RARAD contradicts and belies respondents' above averments. In this regard, the Court accords respect to the findings of the RARAD who has the primary jurisdiction and competence to determine the agricultural character of the land in question.[30] The following excerpts of RARAD Arrieta's findings embodied in his decision are instructive:

> x x x Nonetheless however, Certification issued by the [MARO] of Dalaguete, Cebu and Certification from the Municipal Assessor dated September 27, 1995 and October 4, 1995 respectively, shows that Lot No. 13333 which is the subject of this case is devoted to vegetables since 1972 up to present (Exhibit "F" and "G" respectively). The same was further buttressed by Tax Declaration No. 2102400636 which shows that it is devoted to vegetable production (Exhibit "E"). In the answer of herein respondents dated January 29, 1996, they admitted expressly the fact that the portions of parcel in question is devoted to vegetable production. Pertinent portion thereof is hereunder quoted:
>
> > "(2) That they admit part of paragraph 4 of the allegation that respondents have been farming portions of the parcel in question for the production of vegetables, but only on season when production of rice is not feasible."
>
> It must be noted also that in the affidavit of Manuel Amaya, Sr., dated Dec. 17, 1996 he admitted that he raised corn during panuig season only and that during the pangulilang and pang-enero seasons he raised vegetables like cabbage (Exhibit 1). Furthermore, in the clarificatory questions conducted by the Hearing Officer on Manuel Amaya, Sr., he testified that the corn products of his tillage was utilized **for his consumption only.** (TSN page 10, dated Dec. 17, 1996). From the foregoing facts and admissions it is very clear that the real intention of private defendants was to devote the subject landholdings primarily to vegetable production.
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> Under the rules, judicial admission cannot be contradicted unless shown to have been made by palpable mistake. (De Jesus vs. Intermediate Appellate Court, 175 SCRA 560, July 24, 1989).
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> Accordingly it cannot be gainsaid that the coverage of the subject landholdings under [OLT] was improper.[31] (Emphasis added.)

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[29] CA *rollo*, pp. 73-74.

[30] *Heirs of Francisco Tantoco, Sr. v. Court of Appeals*, G.R. No. 149621, May 5, 2006, 489 SCRA 590, 604.

[31] CA *rollo*, pp. 89-91.

As determined by the RARAD on the basis of documentary and testimonial evidence, and the more conclusive judicial admissions made by respondents, vegetables are the primary crop planted in the areas respectively cultivated by respondents.

But the DARAB would have none of the RARAD's premised findings, relying instead on the presumptive correctness of the agrarian reform officers' determination, supposedly reached after a **tedious** proceeding, as to the nature of the land subject of this case and the identity of the farmer-beneficiaries and their entitlement to lot award. To the DARAB, the fact that EPs have been issued to respondents is proof enough that the disputed portions are planted to corn as primary crop under the tillage of respondents. The DARAB held, thus:

> It must be stressed that the issuance of the EPs in the instant case creates a presumption which yields only to a clear and cogent evidence that the awardee is the qualified and lawful owner because it involves a tedious process. Moreover, the identification and classification of lands and qualification of farmer-beneficiaries are factual determination performed by government officials and personnel with expertise in the line of work they are doing. Their findings, conclusions/recommendations and final actions on the matter, after thorough investigation and evaluation, have the presumption of regularity and correctness (*La Campana Food Products, Inc. vs. Court of Appeals, 221 SCRA 770*). As such, the burden of proving the ineligibility or disqualification of the awardee rests upon the person who avers it through clear and satisfactory proof or substantial evidence as required by law. Complainant, other than her bare allegations, failed to prove that herein respondents-appellants do not deserve the said government grant. Under the circumstances, it is just proper to assume that the issuance of questioned documents was regular and correct. Thus, this Board finds no cogent reason to cause the cancellation of the subject EPs which had long been issued in favor of respondents-appellants.[32]

Clearly, the DARAB misappreciated the evidence adduced before the office of the RARAD and the judicial admissions made by respondents to prove certain key issues. DARAB relied upon the presumption based on what it points to as the tedious process in the issuance of the EPs. It considered as but "bare allegations" what were duly established by documentary and testimonial evidence and by respondents' admission no less that the primary crop planted in the subject landholdings is not corn but vegetables, and that corn is only planted sporadically and only for the personal consumption of one of the respondents. To be sure, the presumption of regularity or correctness of official action cannot be used as springboard to justify the PD 27 coverage of the disputed lots because a presumption is precisely just that—a mere presumption. Once challenged by credibly convincing evidence, as here, it can no longer be treated as binding truth.

In *Mercado v. Mercado*[33] and *Gabriel v. Jamias*,[34] the Court has ruled that the mere issuance of an EP does not put the ownership of ARBs beyond

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[32] Id. at 28.
[33] G.R. No. 178672, March 19, 2009, 582 SCRA 11, 18.

attack and scrutiny. EPs issued to such beneficiaries may be corrected and canceled for violations of agrarian laws, rules and regulations. In fact, DAR AO No. 02, Series of 1994, lists and defines the grounds for cancellation of registered EPs or Certificates of Land Ownership Award (CLOA). Among these are:

> Grounds for the cancellation of registered EPs or CLOAs may include but not be limited to the following:
>
> 1. Misuse or diversion of financial and support services extended to the ARB; (Section 37 of RA No. 6657)
>
> 2. Misuse of the land; (Section 22 of RA No. 6657)
>
> 3. **Material misrepresentation of the ARB's basic qualifications as provided under** Section 22 of RA No. 6657, **PD No. 27**, and other agrarian laws;
>
> 4. Illegal conversion by the ARB; (cf. Section 73, paragraphs C and E of RA No. 6657)
>
> 5. Sale, transfer, lease or other forms of conveyance by a beneficiary of the right to use or any other usufructuary right over the land acquired by virtue of being a beneficiary, in order to circumvent the provisions of Section 73 of RA No. 6657, PD No. 27, and other agrarian laws x x x;
>
> 6. Default in the obligation to pay an aggregate of three (3) consecutive amortizations in case of voluntary land transfer/direct payment scheme, except in cases of fortuitous events and force majeure;
>
> 7. Failure of the ARBs to pay for at least three (3) annual amortizations to the LBP, except in cases of fortuitous events and force majeure; (Section 26 of RA No. 6657)
>
> 8. Neglect or abandonment of the awarded land continuously for a period of two (2) calendar years x x x; (Section 22 of RA No. 6657)
>
> 9. **The land is found to be exempt/excluded from PD No. 27/EO No. 228 or CARP coverage** or to be part of the landowner's retained area as determined by the Secretary or his authorized representative.

Respondents' assertion in their application for lot award as ARBs under the OLT of PD 27—that the parcels of land they respectively cultivate are devoted to corn production, when they are in fact not—cannot but be treated as erroneous, fraudulent deliberate statements of a material fact, constituting "material misrepresentation." Verily, the determination of whether the subject lot is dedicated to the "planting of corn," as to put it within the purview of PD 27, is, ultimately, a conclusion of fact. Since the subject lot was not primarily planted to corn, except occasionally during the *panuig* season (while the subject lot was planted to the regular vegetables

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[34] G.R. No. 156482, September 17, 2008, 565 SCRA 443, 457.

during the *pangulilang* and *pang-enero* seasons), respondents' assertions in their application were willfully and deliberately erroneous and fraudulent. And such fraudulent and deliberate statement of an error, under the circumstances, is a falsity, a material misrepresentation in the context of DAR AO No. 02, Series of 1994. A willful and deliberate assertion of an erroneous conclusion of fact is verily a deliberate untruthful statement of a material fact.

PD 27 pertinently provides, "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."

Daez v. Court of Appeals sets forth the requisite essential to place a piece of land under PD 27, thusly:

> P.D. No. 27, which implemented the Operation Land Transfer (OLT) Program, covers **tenanted rice or corn lands**. The requisite for coverage under the OLT program are the following: (1) the land must be devoted to rice or corn crops; and (2) there must be a system of share-crop or lease tenancy obtaining therein. If either requisite is absent, a landowner may apply for exemption. If either of these requisite is absent, the land is not covered under OLT.[35] x x x (Emphasis added.)

It is, thus, clear that PD 27 encompasses only rice and corn land, i.e., agricultural lands primarily devoted to rice and corn under a system of sharecrop or lease-tenancy. In the instant case, since the landholdings cultivated by respondents are primarily devoted to vegetable production, it is definitely outside the coverage, and necessarily cannot properly be placed under the umbrella, of PD 27. Thus, as the RARAD found, the landholdings cultivated by respondents which are portions of the subject lot were improperly placed under PD 27 through OLT.

It may be, as the DARAB observed, that the process of placing under the land transfer program pursuant to PD 27 of tenanted rice/corn lands is a tedious exercise. Yet, given the proofs adduced in the hearing before the RARAD, there should be no serious quibbling about the fact that the subject lot is not covered by PD 27 simply because it is not corn/rice land.

Given the above perspective, the collateral issue of whether or not the DAR duly furnished petitioner a copy of the notice of coverage under PD 27 of her landholding need not detain us long. Whether the necessary notice of coverage was in fact issued by the DAR and actually received by petitioner is of no moment at this stage and will not detract from the reality that portions of Lot No. 13333 claimed by respondents and over which EPs have been issued are outside the coverage of PD 27 and the OLT program.

This is not to minimize the importance of the notice of coverage and other processes preparatory to bringing an area within land reform coverage

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[35] G.R. No. 133507, February 17, 2000, 325 SCRA 856, 862.

or the compulsory acquisition of private land. Non-compliance with these processes would, applying by analogy the pronouncement in *Roxas & Co., Inc. v. Court of Appeals* (*Roxas*),[36] be an infringement of the requirements of administrative due process. In *Roxas*, a case involving non-observance of procedural requirements laid out in Sec. 16 of RA 6657, or the Comprehensive Agrarian Reform Law (CARL), the Court wrote:

> The importance of the first notice, i.e. the Notice of Coverage and the letter of invitation to the conference, and its actual conduct cannot be understated. They are steps designed to comply with the requirements of administrative due process.[37] x x x

Lest it be overlooked, agrarian reform acquisition of private lands, be it under PD 27 and its implementing issuances or RA 6657, is to some extent an exercise by the state of eminent domain and, hence, confiscatory in nature. Accordingly, notice must be given to the landowners of the fact that their property is being placed under the OLT program, if this be the case. And this required notice has a purpose that is at once legal and equitable. Thru this medium, the landowner is accorded the opportunity either to contest land grant to tenant-farmer or to make the requisite representations for the payment of just compensation for the landholdings placed under PD 27. Notably, after the issuance of PD 27 on October 21, 1972, the following pertinent directives were issued: (a) Memorandum[38] dated November 25, 1972; (b) Letter of Instructions No. (LOI) 474;[39] (c) Department MC 02,[40] Series of 1978; (d) LOI 705;[41] (e) Ministry MC 23,[42] Series of 1978; and (f) Ministry MC 19,[43] Series of 1981.

Ministry MC 19, Series of 1981, explicitly provides, *inter alia*: (i) bases and determination of valuations for farmholdings and homelots;[44] (ii) modes of payment for land transfer compensation claims by landowners;[45] (iii) obligations of ARBs relative to land transfer payments;[46] and (iv) most importantly, the required notices to the landowner and ARBs.[47]

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[36] G.R. No. 127876, December 17, 1999, 321 SCRA 106.

[37] Id. at 134.

[38] Issued by President Marcos postponing the promulgation of Rules and Regulations implementing PD 27 pending the results of the pilot projects in Nueva Ecija and other parts of the country.

[39] Issued on October 21, 1976 directing the DAR to place under OLT (PD 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.

[40] Guidelines on the Inclusion of Landholdings Tenanted After October 21, 1972 within the Coverage of Presidential Decree No. 27, issued by the DAR on January 17, 1978 placing rice and corn landholdings tenanted after October 21, 1972 under PD 27 through OLT.

[41] Issued on June 10, 1978, directing the DAR to transfer homelots actually occupied by tenant-farmers who are, or may be, beneficiaries of the OLT under PD 27.

[42] Implementing Guidelines of Letter of Instruction No. 705, issued by the DAR on October 24, 1978 implementing LOI 705.

[43] *Additional Policy Guidelines and Procedures on Land Valuation and Landowners Compensation Involving Operation Land Transfer (OLT) Covered Lands*, issued by the DAR on December 29, 1981.

[44] Ministry MC 19, Series of 1981, II.

[45] Id. at III, B, 1.

[46] Id. at III, B, 2.

[47] Id., penultimate paragraph, and Annexes.

The records do not yield any indication that Conrada was duly served and received notices relative to the inclusion of portions of the subject lot under PD 27 through OLT. Consider also the following facts:

(a) Despite the issuance of Ministry MC 19, Series of 1981, such notice of inclusion has not been shown; and

(b) The OLT Valuation Form I Establishing the Average Gross Production per Hectare by the BCLP Based on 3 Normal Crop Years Before PD 27 for Mantalongon, Dalaguete,[48] presented by respondents, indubitably shows that it was issued on May 12, 1984, long after the issuance of Ministry MC 19, Series of 1981. Yet respondents have not adduced proof to show due notice as required by the rules on the inclusion of the three farmholdings (portions of subject lot) cultivated by respondents Jesus, Ricardo and Manuel under PD 27 through OLT.

For obvious lack of notice, petitioner was prevented from contesting the inclusion of the three farm lots under the OLT and their consequent award to respondents. The two consolidated complaints she commenced were way too late to defer the issuance of the adverted EPs and OCTs in favor of respondents despite their fraudulent, deliberate assertion of a material misrepresentation before the DAR officials undertaking the OLT under PD 27.

In all, there can be no doubt that petitioner has a clear cause of action and is entitled to the appropriate remedies, as pronounced by the RARAD in his June 10, 1997 Decision, against the DAR's erroneous action bringing portions of her property within the purview of PD 27 and subjected to OLT and other processes/mechanisms set in motion pursuant to this basic land reform decree. The facts of the case and applicable law and jurisprudence call for this kind of disposition

A final consideration. The portions subject of this recourse are doubtless agricultural. RARAD found and declared them so. Even petitioner, by not appealing the decision of the RARAD, agreed with the latter's determination. In fact, petitioner would assert at every opportunity that said portions are devoted vegetable production. Be that as it may, said portions, while exempt from the operation of PD 27, shall be amenable to compulsory acquisition and distribution under the CARL of 1988 (RA 6657), which has for its coverage all agricultural lands, be they publicly or privately owned, regardless of tenurial arrangement and commodity produced.[49] At the end of the day, it behooves the DAR to take the necessary procedural steps and issue the appropriate processes toward the acquisition of the disputed parcels for agrarian reform purposes, but subject to the landowner's right to compensation and retention, if applicable.

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[48] CA *rollo*, p. 45.
[49] Sec. 4.

Since respondents were leasing the subject lots since 1976, it is only but fair and equitable that they are granted an extension of the lease period pursuant to Article 1687 of the Civil Code, which reads:

> If the period for the lease has not been fixed, it is understood to be from year to year, if the rent agreed upon is annual; from month to month, if it is monthly; from week to week, if the rent is weekly; and from day to day, if the rent is to be paid daily. However, even though a monthly rent is paid, and no period for the lease has been set, the courts may fix a longer term for the lease after the lessee has occupied the premises for over one year. If the rent is weekly, the courts may likewise determine a longer period after the lessee has been in possession for over six months. In case of daily rent, the courts may also fix a longer period after the lessee has stayed in the place for over one month.

Respondents have been leasing the premises since 1976 or a period of 37 years. The court grants respondents an extension of one month for every year and, thus, the lease period is extended for three years and one month from finality of this judgment. Respondents shall pay the same lease rentals to petitioner during the extended period and shall be subject to the same terms and conditions of the original lease agreement. At the end of the period, respondents shall peacefully and voluntarily vacate the premises and surrender them to petitioner unless extended by the latter.

WHEREFORE, the instant Petition is **GRANTED**. The assailed September 29, 2006 Decision and September 11, 2007 Resolution of the Court of Appeals in CA-G.R. SP No. 00111 are hereby **REVERSED** and **SET ASIDE**, and the June 10, 1997 Decision of RARAD Arnold C. Arrieta is accordingly **REINSTATED** with **MODIFICATIONS**.

As modified, the *fallo* of the Joint Decision of DAR Regional Adjudicator Arnold C. Arrieta shall read as follows:

> WHEREFORE, the office rules in favor of complainant Conrada O. Almagro as follows:
>
> 1. Sets asides and nullifies the coverage of Lot No. 13333 subject of Tax Declaration No. 21-14946 under Operation Land Transfer;
>
> 2. Orders the Register of Deeds of Cebu to cancel the following:
>
> a. EP No. 176987 and OCT No. 6189 issued in the name of Manuel Amaya, Sr. covering an area of 1,156 square meters;

b. EP No. 176985 and OCT No. 6187 issued in the name of Jesus Mercado, Sr. with an area of 2,479 square meters; and

c. EP No. 176986 and OCT No. 6188 issued in the name of Ricardo Mercado with an area of 1,167 square meters.

3. Orders Land Bank of the Philippines to pay to complainant Almagro the amounts paid to the former by private respondents as payment of lease rentals to said complainant.

4. Allows the private respondents to lease the lots in question for 3 years and 1 month from date of finality of judgment in view of their continuous use of said lots since 1976 subject to the same rentals and terms of their lease agreement. The parties are ordered to faithfully comply with the terms and conditions of the lease.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice

ROBERTO A. ABAD
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

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