



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

RENATO L. DELFINO, SR.
(Deceased), Represented by his
Heirs, namely: GRACIA DELFINO,
GREGORIO A. DELFINO, MA.
ISABELA. DELFINO, RENATO A.
DELFINO, JR., MA. REGINA
DELFINO ROSELLA, MA.
GRACIA A. DELFINO, MARIANO
A. DELFINO, MA. LUISA
DELFINO GREGORIO and REV.
FR. GABRIEL A. DELFINO,
Petitioners,

G.R. No. 197486

Present:

VELASCO, JR., J., *Chairperson,*
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, JJ.

- versus -

AVELINO K. ANASAO and
ANGEL K. ANASAO (Deceased
and represented by his sole heir,
SIXTO C. ANASAO),
Respondents.

Promulgated:

September 10, 2014

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DECISION

VILLARAMA, JR., J.:

Assailed in this petition for review under Rule 45 are the Decision¹ dated January 31, 2011 and Resolution² dated June 17, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 111147. The CA reversed and set aside the Decision³ dated February 6, 2008 and Resolution⁴ dated September 30, 2008 of the Office of the President (OP) denying the petition to annul or cancel the Orders⁵ dated February 28, 1995 and December 13, 1995 of the Secretary of Agrarian Reform and clarifying the Order dated February 28,

¹ *Rollo*, pp. 60-77. Penned by Associate Justice Jane Aurora C. Lantion with Presiding Justice Andres B. Reyes, Jr. and Associate Justice Japar B. Dimaampao concurring.

² *Id.* at 79-80.

³ *Id.* at 112-119.

⁴ *Id.* at 120-124.

⁵ DAR records, pp. 161-167.

1995.

Factual Antecedents

Prior to the effectivity of Presidential Decree No. 27 (PD 27) Renato L. Delfino, Sr. (Delfino) owned the following parcels of agricultural land in the Province of Laguna:

Transfer Certificate of Title (TCT) No.	Area (in hectares)	Classification	Location
T-21710 (T-49743)	2.8148	Riceland	Pook Sta. Rosa
T-21711 (T-49744)	.0872	Riceland	Pook Sta. Rosa
T-21712 (T-49745)	4.1787	Riceland	Tagapo, Sta. Rosa
T-26378 (T-69592)	2.8662	Riceland	Tagapo, Sta. Rosa
T-26381 (T-69595)	20.8108	Coconut land	Masaya, Bay
T-216233	4.7248	Riceland	Sta. Cruz, Sta. Rosa
Total	35.4825 has. ⁶		

In October 1975, Delfino sold the 20.8108-hectare coconut land covered by TCT No. T-26381 (T-69595), leaving him with **14.6717** hectares of riceland. The tenanted portion (**9.8597 hectares**) being tilled by respondents Avelino K. Anasao and Angel K. Anasao, and another farmer, Rodriguez P. Dacumos was placed under Operation Land Transfer (OLT) pursuant to Presidential Decree No. 27 (PD 27).⁷

After full payment to the Land Bank of the Philippines of the amortizations, the farmer-beneficiaries were issued Emancipation Patents⁸ (EPs), as shown below:

Name of Farmer-Beneficiary	TCT No./EP	Location	Previous TCT No.	Area (in has.)
Avelino Anasao	EP-791	Tagapo, Sta. Rosa, Laguna	T-21712	3.0016
Angel Anasao	EP-790	Tagapo, Sta. Rosa	T-21712	.7029
Angel Anasao	EP-792	Tagapo, Sta. Rosa	T-21712	.1815
Rodriguez Dacumos	EP-782	Pook, Sta. Rosa Laguna	T-21710	2.6811
			Total	6.5671 ⁹

The remaining area of 3.2942 hectares covered by OLT was not issued with EPs.¹⁰

⁶ OP records, p. 38.
⁷ Id.
⁸ DAR records, pp. 272-277.
⁹ OP records, p. 37.
¹⁰ Id.

On February 8, 1992, prior to the registration of the EPs in the Registry of Deeds, Delfino filed an Application for Retention over the entire 14.6717-hectare riceland. Upon the recommendation of the Department of Agrarian Reform (DAR), Laguna Provincial Office, the DAR Regional Office IV Director issued an Order¹¹ dated June 22, 1993 denying retention of the 9.8597 hectares but granting retention over the 4.8120 hectares which was not covered by OLT.¹²

Delfino appealed to then DAR Secretary Ernesto D. Garilao who issued an Order¹³ dated February 28, 1995, as follows:

WHEREFORE, premises considered, this Order is hereby issued setting aside the Order of the DAR Regional Director of Region IV dated June 22, 1993, thus petitioner is hereby given the maximum of five (5) hectares from the tenanted portion as his retained area.

SO ORDERED.¹⁴

A motion for reconsideration by way of motion for intervention was filed by respondents who argued that the implementation of the February 28, 1995 Order will have the effect of cancelling the EPs and consequently deprive them of ownership of the landholdings they acquired pursuant to PD 27. In his Order dated December 13, 1995, Secretary Garilao denied the motion for utter lack of merit.¹⁵ Respondents appealed to the OP but later withdrew the appeal and instead filed a petition for review in the CA (CA-G.R. SP No. 39761). By Resolution dated March 15, 1996, the CA's Third Division dismissed the petition for being insufficient in form and substance. Respondents' motion for reconsideration was likewise denied under Resolution dated January 28, 1997. Entry of judgment was issued by the CA on said case.¹⁶

Meanwhile, on August 24, 1995, Delfino sold two hectares of his tenanted riceland covered by TCT Nos. T-26378 (T-69592) situated in Barangay Tagapo, Sta. Rosa, Laguna, to SM Prime Holdings, Inc. Though covered by OLT, no EP had been issued on this portion under TCT No. T-26378 (T-69592).¹⁷ A new certificate of title (TCT No. T-389984) in the name of SM Prime Holdings, Inc. was issued on February 25, 1997.¹⁸

On September 13, 1995, Delfino filed before the Provincial Agrarian Reform Adjudicator (PARAD) a petition¹⁹ for cancellation of the EPs previously issued to respondents on the basis of the DAR Secretary's Order dated December 13, 1995 granting him five hectares as retention area (DCN-

¹¹ DAR records, p. 246.

¹² OP records, p. 37.

¹³ DAR records, pp. 165-167.

¹⁴ Id. at 166-167.

¹⁵ Id. at 117-119, 161-164, 168-176.

¹⁶ Id. at 177-187, 387, 437-442.

¹⁷ OP records, p. 37.

¹⁸ *Rollo*, pp. 241-242.

¹⁹ DAR records, pp. 1-2.

IV-La-0437-95).

On February 17, 1997, respondents filed before the Office of the DAR Secretary a Motion for Clarificatory Judgment²⁰ praying that an administrative determination be made of the particular portion to be retained and whether such right of retention will result in the cancellation of EPs already distributed to farmer-beneficiaries identified as of October 21, 1972.

Meanwhile, in a Joint Order²¹ dated February 19, 1997, Provincial Adjudicator Barbara P. Tan granted Delfino's petition for cancellation of EPs, as follows:

WHEREFORE, in the light of the foregoing considerations, ORDER is hereby jointly issued in the instant consolidated petitions, to wit:

1. Declaring an aggregate area of five (5) hectares consisting of the lots covered by the following certificates of title or Emancipation Patents as Petitioner's retention area, to wit:

1) Transfer Certificate of Title No. EP-782, EP No. A-326714 in the name of Rodriguez Dacumos corresponding to a portion thereof with an area of 1.1140 hectares;

2) Transfer Certificate of Title No. EP-791, EP No. A-326741 in the name of Avelino K. Anasao with an area of 3.0016 hectares;

3) Transfer Certificate of Title No. EP-790, EP No. A-326742 and Transfer Certificate of Title No. EP-792, EP No. A-326743 in the name of Angel K. Anasao with a total area of .8844 hectare;

2. Directing the Register of Deeds of Laguna to cause the cancellation of the above-mentioned certificates of title registered in the names of Respondents Avelino K. Anasao and Angel K. Anasao and the reinstatement of Transfer Certificate of Title No. T-21712 in the name of Renato L. Delfino, Sr.;

3. Directing said Register of Deeds of Laguna to cause the inscription of the instant Order on the original and Owner's duplicate copies of Transfer Certificate of Title No. EP-782, EP No. A-326714 in the name of Respondent Rodriguez Dacumos in respect of the area of 1.1140 hectares;

4. Declaring the subject parcels of land constituting Petitioner's retention area reverted to agricultural leasehold status and private Respondents as the agricultural lessees over their respective landholdings thus reverted;

5. Directing private Respondents Avelino K. Anasao, Angel K. Anasao and Rodriguez Dacumos to surrender their respective owner's

²⁰ Id. at 471-474.

²¹ Id. at 480-484.

duplicate of the subject certificates of title or Emancipation Patents to this Office and/or to its authorized Officer upon proper writ of execution for purposes of implementing the instant Order, Provided, in the event of failure or refusal on their part to comply herewith the subject owner's duplicate of the said certificates of title or emancipation patents shall be deemed cancelled sans any need of prior surrender.

SO ORDERED.²²

A writ of execution was issued on May 19, 1997 directing the DARAB Provincial Sheriff to retrieve the owner's duplicate copies of the subject EPs for purposes of cancellation and/or annotation. Respondents then filed a petition for certiorari in the CA (CA-G.R. SP No. 44285) to annul the said writ and enjoin its implementation.²³

In their Supplemental Motion²⁴ (to the Motion for Clarificatory Judgment), respondents pointed out that Delfino acted in bad faith when he sold a portion of the OLT-covered land in favor of SM Prime Holdings, Inc. without the required DAR clearance. They also prayed that the DAR Secretary order the PARAD to stop the implementation of the Joint Order in DARAB Case No. DCN-IV-La-0437-95.

In his Order²⁵ dated August 8, 1997, Secretary Garilao denied respondents' motion:

A perusal of the records would show that as far as this Office is concerned, the questioned Order has already become final and executory as attested to by Director Ruben Joel A. Puertollano of the Bureau of Agrarian Legal Assistance, in his Memorandum dated 16 May 1997. Even granting, for the sake of argument, that the herein motion could still be entertained, the undeniable fact remains that the issues sought to be clarified herein have already been ruled upon by this Office in its Orders dated 28 February 1995 and 13 December 1995. The same issues were raised in petitioners' Petition for Review with the Court of Appeals which had likewise been dismissed for being insufficient in form and substance.

WHEREFORE, premises considered, an Order is hereby issued DENYING herein Motion for Clarificatory Judgment. This case is considered closed.

SO ORDERED.

On September 20, 2001, respondents filed a Petition to Annul and/or Cancel the DAR Secretary's Orders dated February 28, 1995, December 13, 1995 and August 8, 1997 on the following grounds: (1) Delfino is guilty of fraud, misrepresentation and concealment of a material fact, in his application for retention; and (2) respondents' EPs, which are now covered by transfer certificates of title, can be cancelled only by order of a court, and

²² Id. at 482-484.

²³ Id. at 370-374, 476-479.

²⁴ Id. at 259-267.

²⁵ Id. at 310.

not by the DAR or its Secretary.²⁶

On February 2, 2006, DAR Secretary Nasser C. Pangandaman issued an Order²⁷ denying the petition to annul/cancel the subject orders and clarifying the February 28, 1995 Order of Secretary Garilao, viz:

WHEREFORE, premises considered, Order is hereby issued **DENYING** the Petition to Annul/Cancel the Orders of the Secretary of Agrarian Reform dated 28 February 1995, 13 December 1995 and 08 August 1997, respectively. Therefore, the Order dated 28 February 1995 is hereby **AFFIRMED**.

FURTHER, the Order dated 28 February 1995 is hereby **CLARIFIED** to read:

1. The Deed of Sale dated 24 August 1995 executed by the respondent and SM Prime Holdings, Inc. with an area of two (2) hectares shall be considered as the respondent's retention area;
2. The remaining three (3) hectares shall either be taken from the 4.8120 hectares covered by TCT Nos. T-21711 (T-49744) and T-216233; and
3. The concerned Regional Director, PARO and the MARO are hereby **DIRECTED** to proceed with the coverage of the remains of parcels of agricultural land owned by respondent, after having been given the five (5) hectare retained area pursuant to the above, for distribution to qualified farmer-beneficiaries pursuant to existing rules and regulations.

SO ORDERED.²⁸

Delfino filed a motion for reconsideration which was denied by Secretary Pangandaman in his Order²⁹ dated May 30, 2007, thus:

It is beyond dispute that the right to choose the retention area pertains to the landowner. However, this Office will not allow anyone to circumvent the very purpose of the Comprehensive Agrarian Reform Program – the five (5) hectare retention limit. It bears stressing that the inclusion of the two (2) hectares which is the subject of the Deed of Sale dated 24 August 1995 executed by the respondent in favor of SM Prime Holdings, Inc., as retained area is only to prevent the former to exercise his right of retention beyond the maximum limits allowed by law. The herein respondent cannot simultaneously enjoy from *[sic]* the proceeds of the Deed of Sale and at the same time exercise the right of retention under CARP.

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As regards petitioners' contention that there is a need to clarify the Order dated 02 February 2006 in order to effect the reinstatement of the

²⁶ Id. at 288-297.

²⁷ OP records, pp. 33-39.

²⁸ Id. at 34.

²⁹ Id. at 27-31.

cancelled TCTs/EPs, this Office finds the contention unmeritorious. While it is true that the respondent's five (5) hectares retained area were already delineated and clarified in the assailed Order dated 02 February 2006, nevertheless, this Office cannot issue a directive reinstating TCT No. EP-791 in favor of petitioner Avelino K. Anasao covering the 3.0016 hectares landholding and TCT Nos. EP-790 and 792 in favor of petitioner Angel Anasao covering the landholdings, with an area of 0.7029 and 0.1815 hectare, respectively.

It must be noted that petitioners' titles were cancelled by the DARAB in a separate action for cancellation filed by herein respondent Renato L. Delfino, which was docketed as DARAB Case No. IV-La 437-95. This Office, therefore, cannot interfere with the decision of said forum. To do so would tantamount to encroachment of powers.

Inasmuch as petitioner Rodriguez D. Dacumos filed a Motion to Withdraw Petition and/or Desistance to Further Pursue Petition, wherein he manifested that he is no longer interested in pursuing the instant case, this Office is constrained to dismiss the case in so far as petitioner Rodriguez D. Dacumos is concerned. As pointed out by petitioner Rodriguez D. Dacumos, he and herein respondent Renato L. Delfino have threshed out already their differences and reached an agreement to settle the case amicably. Hence, the petitioner's prayers, to wit: that his name would be dropped as party petitioner in the instant case and the property covered by TCT No. EP-782 would be declared as no longer included in the instant case, is hereby granted.

WHEREFORE, in the light of the foregoing premises, Order is hereby issued **DENYING** the herein Motion for Reconsideration. Thus, the assailed Order dated 2 February 2006 is hereby **AFFIRMED**.

SO ORDERED.³⁰

Respondents appealed the Orders dated February 2, 2006 and May 30, 2007 to the OP.

On February 6, 2008, the OP rendered its Decision partly granting the appeal by nullifying the portion of the May 30, 2007 Order of Secretary Pangandaman which clarified Secretary Garilao's February 28, 1995 Order. Said office ruled that the two hectares sold to SM Prime Holdings, Inc. would not bring about any ambiguity in the execution of the Order dated February 28, 1995, in relation to the December 13, 1995 and August 8, 1997 Orders, and that whatever remains after deducting the 9.6717 hectares reserved for the farmer-beneficiaries pertains to Delfino. As to the remaining portion of the May 30, 2007 Order of Secretary Pangandaman, the same was upheld.

Respondents' motion for reconsideration was denied under the OP's Resolution dated September 30, 2008.

The case was elevated by respondents to the CA via a petition for review under Rule 43. By Decision dated January 31, 2011, the CA reversed

³⁰ Id. at 28-30.

the OP's ruling and reinstated the Orders dated February 2, 2006 and May 30, 2007 of Secretary Pangandaman. According to the CA, the ambiguity in the February 28, 1995 Order of Secretary Garilao lies in its failure to specify as to which portion of the 14.617 hectares should the five hectares retention area of Delfino be taken. Thus, even after the said order had become final and executory, the DAR Secretary is not precluded from making the necessary amendments/clarifications thereof so that the *fallo* would at least conform with the body of said order and so that the same could readily be executed with dispatch. But since Delfino sold two hectares to SM Prime Holdings, Inc. before the ambiguity could be properly addressed by DAR, the CA found no reversible error in the February 2, 2006 Order clarifying the ambiguity and in the May 30, 2007 Order stating the rationale for such clarification.

Delfino, represented by his surviving heirs (petitioners) filed a motion for reconsideration but the CA denied it under Resolution dated June 17, 2011.

Issues

The issues to be resolved in the present controversy are: (1) whether the February 2, 2006 Order of Secretary Pangandaman, insofar as it clarified the February 28, 1995 Order of Secretary Garilao, violated the rule on immutability of final judgments; and (2) whether the inclusion of the two-hectare portion sold to SM Prime Holdings, Inc. in Delfino's retention area was in derogation of Section 6 of Republic Act No. 6657 (RA 6657).

Our Ruling

We grant in part the petition.

The right of retention is a constitutionally guaranteed right, which is subject to qualification by the legislature. It serves to mitigate the effects of compulsory land acquisition by balancing the rights of the landowner and the tenant and by implementing the doctrine that social justice was not meant to perpetrate an injustice against the landowner.³¹

In the landmark case of *Association of Small Landowners in the Phils., Inc. v. Secretary of Agrarian Reform*,³² this Court held that landowners who have not yet exercised their retention rights under PD 27 are entitled to the new retention rights under RA 6657. Section 6 of the latter law defines the nature and incidents of the landowner's right to retention, thus:

SEC. 6. *Retention Limits* – Except as otherwise provided in this

³¹ *Daez v. Court of Appeals*, 382 Phil. 742, 752 (2000), citing Sec. 4, Art. XIII, 1987 Constitution, *Cabatan v. Court of Appeals*, 184 Phil. 281, 314-315 (1980) and *Dequito v. Llamas*, 160-A Phil. 7, 16 (1975).

³² 256 Phil. 777, 825 (1989).

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

The right to choose the area to be retained, which shall be compact or contiguous, shall pertain to the landowner; *Provided, however*, That in case the area selected for retention by the landowner is tenanted, the tenant shall have the option to choose whether to remain therein or be a beneficiary in the same or another agricultural land with similar or comparable features. In case the tenant chooses to remain in the retained area, he shall be considered a leaseholder and shall lose his right to be a beneficiary under this Act. In case the tenant chooses to be a beneficiary in another agricultural land, he loses his right as a leaseholder to the land retained by the landowner. The tenant must exercise this option within a period of one (1) year from the time the landowner manifests his choice of the area for retention.

In all cases, the security of tenure of the farmers or farmworkers on the land prior to the approval of this Act shall be respected.

Upon the effectivity of this Act, any sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner in violation of this Act shall be null and void; *Provided, however*, That those executed prior to this Act shall be valid only when registered with the Register of Deeds within a period of three (3) months after the effectivity of this Act. Thereafter, all Registers of Deeds shall inform the DAR within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares. (Emphasis supplied.)

Under the February 28, 1995 Order of Secretary Garilao, Delfino was granted five hectares “from the tenanted portion as his retained area.” Said order had become final and executory on March 9, 1997.

A decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law, and whether it will be made by the court that rendered it or by the highest court of the land.³³ This doctrine of finality and immutability of judgments is grounded on fundamental considerations of public policy and sound practice to the effect that, at the risk of occasional error, the judgments of the courts

³³ *Heirs of Maura So v. Oblisca*, 566 Phil. 397, 407 (2008).

must become final at some definite date set by law.³⁴

There are, however, exceptions to the general rule, namely: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.³⁵ The exception to the doctrine of immutability of judgment has been applied in several cases in order to serve substantial justice.³⁶

In this case, the clarification made by Secretary Pangandaman in his February 2, 2006 Order falls under the fourth exception.

It is true that the February 28, 1995 Order of Secretary Garilao stated that the five hectares shall be taken from the *tenanted area*, which pertains to the **9.8597 hectares** of which **6.5671 hectares** were already issued with EPs in favor of respondents. Subsequently, however, without prior clearance from the DAR, Delfino sold two hectares of land covered by OLT to SM Prime Holdings, Inc. The DAR Secretary thus found it fair and equitable to include the said portion to Delfino's retention area, which meant that Delfino is entitled only to the balance of three hectares.

As explained by Secretary Pangandaman in his order denying Delfino's motion for reconsideration, this clarification was made in order not to circumvent the five-hectare limitation as said landowner "cannot [be allowed to] simultaneously enjoy ... the proceeds of the [sale] and at the same time exercise the right of retention"³⁷ to the maximum of five hectares.

Petitioners argue that the amendment/clarification of the February 28, 1995 Order resulted in the diminution of Delfino's right of retention under Section 6 of RA 6657 because the DAR Secretary cannot impose on the landowner the area of retention, the choice of the landowner having been upheld in numerous cases decided by this Court particularly in *Daez v. Court of Appeals*³⁸. It is further contended that the two hectares sold to SM by Delfino cannot be considered as retention area, the same having been declared not agricultural land, pursuant to the Exemption Order³⁹ dated September 14, 2005 issued by Regional Director Homer P. Tobias.

On the matter of allowing Delfino to choose the remaining three hectares of his retention area, we rule for the petitioners.

³⁴ *Bañares II v. Balising*, 384 Phil. 567, 582 (2000).

³⁵ *FGU Insurance Corporation v. Regional Trial Court of Makati City, Branch 66*, G.R. No. 161282, February 23, 2011, 644 SCRA 50, 56, citing *Villa v. Government Service Insurance System (GSIS)*, G.R. No. 174642, October 30, 2009, 604 SCRA 742, 750.

³⁶ Id. Citations omitted.

³⁷ OP records, pp. 29-30.

³⁸ Supra note 31.

³⁹ *Rollo*, pp. 284-287.

While we agree with Secretary Pangandaman in holding that Delfino had partially exercised his right of retention when he sold two hectares to SM Prime Holdings, Inc., *after* his application for retention was granted by Secretary Garilao, we cannot affirm the portion of the February 2, 2006 Order which decreed that the remaining three hectares shall be taken “either from the 4.8120 hectares covered by TCT Nos. T-21711 (T-49744) and T-216233.”⁴⁰ Such directive encroaches on the prerogative expressly given to landowners under Section 6 of RA 6657 to choose their area of retention.

As this Court held in *Daez v. Court of Appeals*,⁴¹ the right of retention can be exercised over tenanted land and even where CLOAs or EPs have been issued to tenant-farmers provided that the right of tenants under Section 6 of RA 6657 is similarly protected. Thus:

...For as long as the area to be retained is compact or contiguous and it does not exceed the retention ceiling of five (5) hectares, a landowner’s choice of the area to be retained, must prevail. Moreover, Administrative Order No. 4, series of 1991, which supplies the details for the exercise of a landowner’s retention rights, likewise recognizes no limit to the prerogative of the landowner, although he is persuaded to retain other lands instead to avoid dislocation of farmers.

Without doubt, this right of retention may be exercised over tenanted land despite even the issuance of Certificate of Land Transfer (CLT) to farmer-beneficiaries. *What must be protected, however, is the right of the tenants to opt to either stay on the land chosen to be retained by the landowner or be a beneficiary in another agricultural land with similar or comparable features.*

X X X X

The issuance of EPs or CLOAs to beneficiaries does not absolutely bar the landowner from retaining the area covered thereby. Under Administrative Order No. 2, series of 1994, an EP or CLOA may be cancelled if the land covered is later found to be part of the landowner’s retained area.

A certificate of title accumulates in one document a comprehensive statement of the status of the fee held by the owner of a parcel of land. As such, it is a mere evidence of ownership and it does not constitute the title to the land itself. It cannot confer title where no title has been acquired by any of the means provided by law.

Thus, we had, in the past, sustained the nullification of a certificate of title issued pursuant to a homestead patent because the land covered was not part of the public domain and as a result, the government had no authority to issue such patent in the first place. Fraud in the issuance of the patent, is also a ground for impugning the validity of a certificate of title. In other words, the invalidity of the patent or title is sufficient basis for nullifying the certificate of title since the latter is merely an evidence of the former.

⁴⁰ OP records, p. 34.

⁴¹ Supra note 31, at 754.

In the instant case, the CLTs of private respondents over the subject 4.1685-hectare riceland were issued without Eudosia Daez having been accorded her right of choice as to what to retain among her landholdings. The transfer certificates of title thus issued on the basis of those CLTs cannot operate to defeat the right of the heirs of deceased Eudosia Daez to retain the said 4.1685 hectares of riceland.⁴² (Underscoring in the original; emphasis supplied.)

As to the Exemption Order allegedly issued by the DAR Regional Director dated September 14, 2005, the Court notes that the matter of SM Prime Holdings, Inc.'s application for exemption from CARP coverage was never raised by petitioners during the proceedings before the Regional Director and OP. Records showed that the administrative declaration of "non-agricultural" use of the two-hectare portion sold to SM Prime Holdings, Inc. pursuant to a 1981 zoning classification ordinance, was mentioned by petitioners for the first time in their Motion for Reconsideration dated February 17, 2011 after the CA rendered its adverse ruling, attaching a photocopy thereof to the motion. The only grounds or arguments invoked by petitioners in their Memorandum submitted to the CA were the finality of the assailed DAR Secretary's Orders dated February 28, 1995, December 13, 1995 and August 8, 1997 and that respondents' petition for review was filed out of time.

The general rule is that issues raised for the first time on appeal and not raised in the proceedings in the lower court are barred by estoppel. Points of law, theories, issues, and arguments not brought to the attention of the trial court ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal. To consider the alleged facts and arguments raised belatedly would amount to trampling on the basic principles of fair play, justice, and due process.⁴³

Finally, we find no merit in respondents' argument that the present petition should be dismissed for failure of the other co-heirs/co-petitioners to sign the verification and certification against forum-shopping as required by Sections 4 and 5, Rule 7 of the 1997 Rules of Civil Procedure.

In the case of *Iglesia Ni Cristo v. Judge Ponferrada*⁴⁴ we expounded on the purpose and sufficiency of compliance with the verification and certification against forum shopping requirements, viz:

The issue in the present case is not the lack of verification but the sufficiency of one executed by only one of plaintiffs. This Court held in *Ateneo de Naga University v. Manalo*, that **the verification requirement is deemed substantially complied with when, as in the present case, only one of the heirs-plaintiffs, who has sufficient knowledge and belief to swear to the truth of the allegations in the petition**

⁴² Id. at 754-756.

⁴³ *Ramos v. Philippine National Bank*, G.R. No. 178218, December 14, 2011, 662 SCRA 479, 495, citing *Imani v. Metropolitan Bank & Trust Company*, G.R. No. 187023, November 17, 2010, 635 SCRA 357, 371.

⁴⁴ 536 Phil. 705 (2006).

(complaint), signed the verification attached to it. Such verification is deemed sufficient assurance that the matters alleged in the petition have been made in good faith or are true and correct, not merely speculative.

The same liberality should likewise be applied to the certification against forum shopping. The general rule is that the certification must be signed by all plaintiffs in a case and the signature of only one of them is insufficient. However, the Court has also stressed in a number of cases that the rules on forum shopping were designed to promote and facilitate the orderly administration of justice and thus should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective. **The rule of substantial compliance may be availed of with respect to the contents of the certification.** This is because the requirement of strict compliance with the provisions merely underscores its mandatory nature in that the certification cannot be altogether dispensed with or its requirements completely disregarded.

The substantial compliance rule has been applied by this Court in a number of cases: *Cavile v. Heirs of Cavile*, where the Court sustained the validity of the certification signed by only one of petitioners because he is a relative of the other petitioners and co-owner of the properties in dispute; *Heirs of Agapito T. Olarte v. Office of the President of the Philippines*, where the Court allowed a certification signed by only two petitioners because the case involved a family home in which all the petitioners shared a common interest; *Gudoy v. Guadalquiver*, where the Court considered as valid the certification signed by only four of the nine petitioners because all petitioners filed as co-owners *pro indiviso* a complaint against respondents for quieting of title and damages, as such, they all have joint interest in the undivided whole; and *Dar v. Alonzo-Legasto*, where the Court sustained the certification signed by only one of the spouses as they were sued jointly involving a property in which they had a common interest.

It is noteworthy **that in all of the above cases, the Court applied the rule on substantial compliance because of the commonality of interest of all the parties with respect to the subject of the controversy.**⁴⁵ (Emphasis supplied.)

WHEREFORE, the petition is **PARTLY GRANTED**. The Decision dated January 31, 2011 of the Court of Appeals in CA-G.R. SP No. 111147 is **AFFIRMED** insofar as it upheld the February 2, 2006 Order of Secretary Pangandaman declaring the two-hectare land covered by TCT No. T-26378 (T-69592) which was sold by Renato L. Delfino, Sr. to SM Prime Holdings, Inc. as part of his retention area.


The aforesaid Order is **MODIFIED** in that herein petitioners, heirs of Delfino, Sr., are hereby allowed to choose three hectares of their retention area from the remaining portions of Delfino, Sr.'s landholding situated in Sta. Rosa, Laguna, subject to the conditions laid down in Section 6 of RA 6657 and DAR regulations. Respondents are likewise entitled to exercise the rights granted to tenants-beneficiaries affected by landowner's retention.

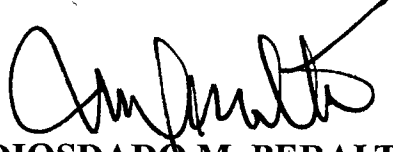
⁴⁵ Id. at 719-720.

SO ORDERED.


MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

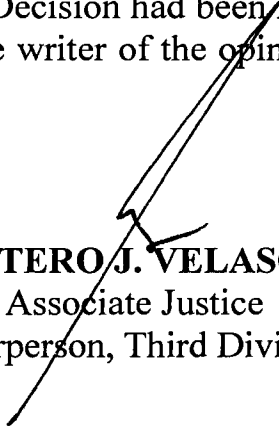

DIOSDADO M. PERALTA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

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


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

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 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.



ANTONIO T. CARPIO
Acting Chief Justice

