



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REMMAN ENTERPRISES, INC.,
Petitioner,

G.R. No. 132073

-versus-

HON. ERNESTO D. GARILAO, in his capacity as SECRETARY OF THE DEPARTMENT OF AGRARIAN REFORM, EDUARDO ADRIANO, PABLITO ADRIANO, IGNACIO VILLENA, DOMINGO SAYOTO, DOMINADOR MANTILLAS, PABLITO MANTILLAS, GRACIANO MAGLIAN, LEOPOLDO CALITIS, PRIMO GALANG, RENE GALANG, FRANCISCO HAYAG, MARCOS MENDOZA, NOE CABALLERO, ROLANDO PADAR, FRANCISCO SANTARIN, PEDRO PASTOR, JR., ROLANDO PASTOR, MELCHOR MENDOZA, MARIANO CAPILI, CONRADO FERRER, and MARGARITO MENDOZA,

Respondents.

X-----X

EDUARDO ADRIANO, PABLITO ADRIANO, IGNACIO VILLENA, DOMINGO SAYOTO, DOMINADOR MANTILLAS, PABLITO MANTILLAS, GRACIANO MAGLIAN, LEOPOLDO CALITIS, PRIMO GALANG, RENE GALANG, FRANCISCO HAYAG, MARCOS MENDOZA, NOE CABALLERO, ROLANDO PADAR,

G.R. No. 132361

Present:

LEONEN, J.,
Chairperson,
CARANDANG,
ZALAMEDA,
ROSARIO,
DIMAAMPAO, JJ

J

FRANCISCO SANTARIN, PEDRO PASTOR, JR., ROLANDO PASTOR, MELCHOR MENDOZA, MARIANO CAPILI, CONRADO FERRER, and MARGARITO MENDOZA,
 Petitioners,

-versus-

REMMAN ENTERPRISES, INC., and HON. ERNESTO D. GARILAO, in his capacity as SECRETARY OF AGRARIAN REFORM,

Promulgated:

October 6, 2021

Respondents.

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X -----X

DECISION

CARANDANG, J.:

Before this Court are consolidated Petitions for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated April 30, 1997 and the Resolution³ dated January 8, 1998 of the Court of Appeals (CA) in CA-G.R. SP No. 42004.

In the Resolution⁴ dated September 27, 2006, the Court held in abeyance the determination of the consolidated petitions until after the validity of the emancipation patents issued to Eduardo Adriano, Pablito Adriano, Ignacio Villena, Domingo Sayoto, Dominador Mantillas, Pablito Mantillas, Graciano Maglian, Leopoldo Calitis, Primo Galang, Rene Galang, Francisco Hayag, Marcos Mendoza, Noe Caballero, Rolando Padar, Francisco Santarin, Pedro Pastor, Jr., Rolando Pastor, Melchor Mendoza, Mariano Capili, Conrado Ferrer, and Margarito Mendoza (Adriano, *et al.*) in Department of Agrarian Reform Adjudication Board (DARAB) Case No. IV-Ca. 0087-92 pending before the Provincial Agrarian Reform Adjudicator (PARAD) has been conclusively and finally determined. The Court declared that a complete resolution of the application for exemption of the subject parcels of land from the coverage of Comprehensive Agrarian Reform

¹ *Rollo*, pp. 10-51, 316-369.

² Penned by Associate Justice Antonio M. Martinez, with the concurrence of Associate Justices Lourdes K. Tayao-Jagueros and Romeo A. Brawner; *id.* at 54-61.

³ Penned by Associate Justice Romeo A. Brawner, with the concurrence of Associate Justices Ricardo P. Galvez and Marina L. Buzon; *id.* at 82.

⁴ Penned by Associate Justice Minita V. Chico-Nazario, with the concurrence of Chief Justice Artemio V. Panganiban and Associate Justices Consuelo Ynares-Santiago and Ma. Alicia Austria-Martinez (former Members of this Court); *id.* at 392-411.

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Program (CARP), filed by Remman Enterprises, Inc. (Remman), entails a finding of whether the emancipation patents issued to Adriano, *et al.* are null and void, or valid and subsisting.

In another Resolution⁵ dated July 25, 2012, the Court remanded the case to the Office of the Provincial Adjudicator of Cavite to determine the validity or invalidity of the emancipation patents of the farmer-beneficiaries affected by Remman's application for exemption from the CARP. It further ordered the Provincial Reform Adjudicator to inform this Court its final decision on the matter within five days from its finality.

In the Compliance⁶ dated August 13, 2020, Provincial Adjudicator Ellen C. Hernandez-Basilio informed this Court that a Decision⁷ dated January 27, 2020 was rendered by her office declaring as valid the emancipation patents awarded to the farmer beneficiaries.

The Court shall now resolve the consolidated petitions.

Facts of the Case

Parcels of land with an aggregate area of 46.9180 hectares situated in Brgy. San Jose, Dasmariñas, Cavite are owned by Nieves Arguelles vda. De Saulog, Marietta A. Saulog, Maura A. Saulog, Virginia A. Saulog, Teodoro A. Saulog, Melquiades A. Saulog, Bernard Raymond T. Saulog, Lilia A. Saulog and Patrocino M. Saulog (Saulogs).

In 1989, the parcels, covered by Operation Land Transfer (OLT), were distributed to farmer-beneficiaries and emancipation patents were given to Eduardo Adriano, Pablito Adriano, Ignacio Villena, Domingo Sayoto, Eduardo Villena, Dominador Mantillas, Pablito R. Mantillas, Graciano Maglian, Leopoldo Calitis, Rene Galang, Francisco Hayag, Francisco Santarin, Pedro Pastor, Rolando Pastor, Marcos Mendoza and Eusebio Clorina.

On 6 February 1993, the Saulogs filed a Petition for Annulment of Resolution of Department of Agrarian Reform (DAR) Region IV Director, Certificates of Land Transfer, Emancipation Patents and CLOA's against the DAR Regional Director of Region IV Wilfredo B. Leano docketed as DARAB Case No. IV-Ca-0087-92. The subject of the annulment is a 27.8530 ha. portion of the 46.9180 hectares sold by the Saulogs in favor of Remman, a private domestic corporation engaged in the business of housing or subdivision developments.

⁵ Penned by by Associate Justice Jose Portugal Perez, with the concurrence of Associate Justices Antonio T. Carpio, Mariano C. Del Castillo, and Maria Lourdes P.A. Sereno (former Members of this Court); *id.* at 434-444.

⁶ *Id.* at 513-515.

⁷ *Id.* at 516-530.

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The matter of annulment arose because the parcels of land are the same parcels distributed to farmer beneficiaries by the DAR pursuant to OLT in 1989 and thereafter issued with corresponding Emancipation Patents.

On 26 April 1993, Presiding Provincial Agrarian Reform Adjudicator (PARAD) of Cavite Glicerio G. Arenal rendered a decision in favor of the Saulogs. However, the Department of Agrarian Reform Adjudication Board (DARAB), upon appeal, vacated the appealed decision and remanded the case to the PARAD for non-joinder of indispensable parties and for further reception of evidence. The original petition was amended to include the farmer-beneficiaries Adriano, et al. as intervenors being the holders of the Emancipation Patents covering the same land.

On 7 February 1995, while the DARAB case was pending, the Saulogs sold their aggregate land to Remman for a consideration of Fifty Two Million Pesos (P52,000,000.00) as evidenced by the Deed of Sale executed by the parties. As a consequence, Remman intervened in the DARAB case as the new owner of the land.

On 17 August 1995, Remman also filed with the DAR an application for exemption from the coverage of CARP of the 46.9180 hectares earlier purchased from the Saulogs. The application was filed through the Socialized Housing One-Stop Processing Center (SHOPC). The lands covered by this application are summarized as follows:

<u>Name of Registered Owner</u>	<u>Title No.</u>	<u>Area (in has.)</u>
Marietta Saulog Vergara	T-231847	3.000
Maura Saulog Aguinaldo	T-231848	3.000
Virginia A. Saulog	T-231849	3.000
Teodoro A. Saulog	T-231850	3.000
Ruben A. Saulog	T-231851	3.000
Lilia Saulog Venturina	T-231852	3.000
Melquiades A. Saulog	T-231853	3.000
Luciana A. Saulog	T-231854	3.000
Nieves Arguelles Saulog	T-240093	1.5124
-do-	T-240094	1.5124
-do-	T-240095	1.5124
-do-	T-240096	1.5124
-do-	T-240097	1.5124
-do-	T-240098	1.5124
-do-	T-240099	1.5124
-do-	T-240100	2.3322
-do-	T-240101	9.9990

Remman submitted the following documents to support its claim of exemption:

1. HLURB Certification dated February 16, 1995 issued by Engr. Alfredo M. Tan II stating that the subject parcels of land appear to be within the Residential Zone (R-1)

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- based on HSRC (now HLRB) Approved Zoning Map per HSRC Resolution No. R-42-A-3 dated February 9, 1981;
2. NIA Certification dated December 21, 1995 issued by Jose F. Ner, Provincial Irrigation Officer I stating that the properties are not covered by Presidential Administrative Order No. 20 because they are not irrigated nor irrigable land within the areas programmed for irrigation development under the NIA Irrigation Development Program with firm funding commitment;
 3. Certification from Engr. Gregorio C. Bermejo of the Office of the Municipal Engineer/Building Official stating that the properties are within the Residential Zone as per Approved Land Use Plan of the Municipality of Dasmariñas dated February 11, 1981 under Resolution No. R-42-A-3 by the then HSRC (now HLRB).⁸

On June 5, 1996, Secretary Ernesto D. Garilao (Secretary Garilao) issued an Order⁹ denying the application for exemption of Remman. The dispositive portion reads:

WHEREFORE, premises considered, and after having found that the instant application lacks merit, Order is hereby issued denying the same and placing the herein properties involving seventeen (17) parcels of land with an aggregate of 46.9180 hectares located at Brgy. San Jose, Dasmariñas, Cavite under CARP coverage.¹⁰ (Emphasis omitted)

The DAR Secretary explained that although the Deed of Sale was submitted by Remman, it was neither notarized nor registered with the Register of Deeds. Thus, it is not an official document and does not bind third parties. Hence, the DAR still considered the Saulogs as the owners and Remman does not possess personality to file the application.¹¹

In denying the application for exemption, the DAR Secretary further relied on a Certification dated November 3, 1995 of the Municipal Agrarian Reform Council Reform Officer Amelia M. Rolle stating that the subject properties were covered by Operation Land Transfer (OLT) under Presidential Decree (P.D.) 27, and that there are 24 farmer-beneficiaries occupying a total of 46.5935 hectares of the lots. This renders nugatory the reclassification of the properties into non-agricultural use since such does not bind lands covered by OLT pursuant to P.D. 27. Further, the National Irrigation Administration certification that the parcels of lands are not irrigated was refuted by the Report of Arturo Lipio, the SHOPC-DAR Desk Officer of Region IV, stating that the landholdings are indeed irrigated as evidenced by the presence of an irrigation system in the area. This fact was admitted by Remman in the Information Sheet filed before the SHOPC. Since

⁸ Id. at 435-438.

⁹ Id. at 223-226.

¹⁰ Id. at 226.

¹¹ Id. at 225.

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the landholdings are irrigated, the application cannot be processed under the procedure governing conversion because under Administrative Order No. 20, Series of 1992, such properties are non-negotiable for conversion.¹²

Remman moved for reconsideration.

On September 4, 1996, Secretary Garilao issued an Order¹³ partially granting Remman's application for exemption. The coverage of the CARP was reduced to **15.31915 hectares** representing the share of Nieves vda. De Saulog. The dispositive portion of the Order reads:

PREMISES CONSIDERED, after having gone through all arguments, this Order is hereby issued:

1. Confirming the coverage of the 15.31915 hectare tenanted rice and corn share of Nieves vda. de Saulog under Operation Land Transfer;
2. Granting the retention of the other heirs of 1.39265 hectares of tenanted rice and corn, each, subject to the filing by the applicant of the proper petition in the proper forum;
3. Requiring the Municipal Agrarian Reform Officer to cause the preparation of Contracts of Agricultural Leasholds between the owners of the lands and the farmer-tenants of the retained areas;
4. Excluding from the coverage of Agrarian Reform the 19.065 hectare land planted to mango by virtue of Section 3[(j)] of R.A. No. 665 7, subject to the payment of disturbance compensation; and
5. Instructing the Regional Director of Region IV and the Provincial Agrarian Reform Officer to cause the proper execution of this Order.¹⁴

The DAR Secretary declared that the owners, with the exception of Nieves vda. De Saulog, can retain their lands pursuant to the retention limits under P.D. 27. Nieves vda. De Saulog is not allowed under Letter of Instruction No. 474 to retain her land considering that she owned other agricultural lands. Ruling on the retention limits, the DAR Secretary reached the following conclusion:

Name of Co-owner	Tenanted R/C lands owned	Other Agri. Lands	PD 27 Coverage	Area Retained of Tenanted R/C Lands
Nieves	15.31915 has.	10.48575 has.	15.31915 has.	0.0 has.
Ignacio	1.39265 has.	0.95325 has.	0.0 has.	1.39265 has.
Luciano	1.39265 has.	0.95325 has.	0.0 has.	1.39265 has.
Virginia	1.39265 has.	0.95325 has.	0.0 has.	1.39265 has.
Teodoro	1.39265 has.	0.95325 has.	0.0 has.	1.39265 has.

¹² Id. at 225-226.

¹³ Id. at 268-277.

¹⁴ Id. at 276.

Melquiades	1.39265 has.	0.95325 has.	0.0 has.	1.39265 has.
Maura	1.39265 has.	0.95325 has.	0.0 has.	1.39265 has.
Ruben	1.39265 has.	0.95325 has.	0.0 has.	1.39265 has.
Lilia	1.39265 has.	0.95325 has.	0.0 has.	1.39265 has.
Marietta	1.39265 has.	0.95325 has.	0.0 has.	1.39265 has. ¹⁵

In addition, it was held that the farmer-tenants occupying the retained area of the children of Nieves vda. De Saulog shall remain therein, subject to the option of the farmers to accept disturbance compensation, in which case, they shall have to vacate the retained lands. The remaining lands were declared to be outside of the coverage of the Comprehensive Agrarian Reform Law under Section 3(c) of Republic Act No. (R.A.) 6657, having been reclassified as non-agricultural in 1981. This is subject to the payment of disturbance compensation to qualified farmer-beneficiaries.¹⁶

The DAR Secretary further ruled that P.D. 27 has not been expressly repealed by R.A. 6657; hence, the tenant-farmers' vested rights should still be respected. P.D. 27 considered these farmer-tenants "deemed owners." Thus, the municipal reclassification of the subject lots cannot remove the vested rights of the tenant-farmers granted to them by statute. The issuance of titles to the beneficiaries of P.D. 27 is merely confirmatory of a right that has existed since 1972.¹⁷

Remman filed a petition for review¹⁸ before the CA for a partial review of the September 4, 1996 Order of the DAR Secretary.

On April 30, 1997, the CA issued a Decision¹⁹ which affirmed with modification the DAR Secretary's Order. The decretal portion states:

WHEREFORE, the appealed decision of the Secretary is hereby AFFIRMED with MODIFICATION only with respect to No. 4 of the dispositive portion, deleting therefrom the payment of disturbance compensation, such that [it] should read this wise:

4. Excluding from the coverage of Agrarian Reform the 19.065 hectare land planted with mango by virtue of Sections 3(c) and 11 of R.A. [No.] 6657.

SO ORDERED.²⁰

The CA maintained the grant of partial exemption applying both P.D. 27 and R.A. 6657 and accorded respect to the vested rights of the farmer-tenants. According to the CA, even the new Comprehensive Agrarian Reform Law can no longer disturb the ownership vested under P.D. 27. The provisions

¹⁵ Id. at 272-273.

¹⁶ Id. at 273-274.

¹⁷ Id. at 274-275.

¹⁸ Id. at 83-132.

¹⁹ Supra note 2.

²⁰ *Rollo*, p. 61.

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under the CARP allowing certain exemptions from the coverage thereof cannot be made to apply to lands which were already declared under OLT under P.D. 27 as in the case of the farmer beneficiaries at bar. The exemption of the 19.065-hectare portion planted with mango is provided under Section 11 of R.A. 6657.²¹

The CA deleted the payment of disturbance compensation explaining that disturbance compensation presupposes that there are tenant-farmers which are to be displaced as a consequence of conversion. In this case, there is no showing that the land is to be converted or has been converted into an orchard. Moreover, farmer-occupants of the land planted with mango do not have a right to retain the same since it is not within the coverage of the CARP or any previous agrarian law.²²

Anent the issue of whether the lands are irrigated or irrigable, the CA held that the question loses its significance because the rule on the non-negotiability of irrigated lands applies only to conversion proceedings but not to exclusion proceedings, as in this case.²³

Both Remman and Adriano, *et al.* moved for reconsideration. These motions were denied in the Resolution²⁴ dated January 8, 1998.

Hence, these Petitions for Review on *Certiorari* under Rule 45 of the Rules of Court separately filed by Remman and Adriano, *et al.* docketed as G.R. No. 132073 and G.R. No. 132361, respectively.

Petition for Review on Certiorari under Rule 45 for G.R. No. 132073

Remman argues that the CA failed to rule on the factual issues as to the reclassification of the lands into residential land; the location of the lands in an urbanized area; and on the validity of the emancipation patents issued to Adriano, *et al.* It claims that the lands were effectively converted into residential lands in 1981 by virtue of their being re-zoned as such by the *Sangguniang Bayan* of Dasmarinas, Cavite, and approved by the Human Settlements Regulatory Commission (HSRC), now the Housing and Land Use Regulatory Board (HLURB). Citing R.A. 7279, Remman contends that the lands are already urban land, especially in light of the fact that Dasmarinas, Cavite, has a population density of some 2,000 persons per square kilometer. Remman also faults the CA for the latter's failure to address the crucial issue of whether Adriano, *et al.* qualified as farmer-beneficiaries under P.D. 27.²⁵

Remman claims that the lands are "strip lands," which are reserved for uses other than agricultural under P.D. No. 399, hence, the DAR Secretary was without reason to deny the exemption applied for. Remman contests the

²¹ Id. at 59-60.

²² Id. at 60.

²³ Id. at 60-61.

²⁴ *Supra* note 3.

²⁵ *Rollo*, pp. 331-335.

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validity of the emancipation patents issued to Adriano, *et al.*, for failure to comply with the provisions of P.D. 27 for there was neither payment of amortizations as required by the law nor was there payment of realty taxes thereon by the tenant-farmers. Remman avers that the emancipation patents were issued without payment of just compensation to the Saulog family.²⁶

Petition for Review on Certiorari under Rule 45 for G.R. No. 132361

Adriano, *et al.* insist that they were denied due process of law because they were not made parties to Remman's application for exemption from the coverage of CARP. They were not notified by Remman despite being the actual tenants of the lands which they have been cultivating for more than 30 to 40 years now. Moreover, they claim that the CA failed to heed to their prayer for an ocular inspection of the subject properties so that full adjudication on the facts be rightly determined. They asked the Court to remand the case to the court of origin for further proceedings and to grant them the opportunity to refute the evidence presented by Remman before the DAR. They argued that the conclusion that more than 19 hectares of the subject property is planted to mango is a complete distortion of fact. The entire property is devoted to *palay* and only the boundary of the property bordering the river is planted with a few mango trees. They prayed that Remman's application for exemption be denied and that the whole area be placed under CARP coverage.²⁷

The Court's Resolution dated September 27, 2006

The Court held in abeyance the judgment on the propriety of the exemption sought by Remman until after the issue as to the validity of the emancipation patent which precisely cover most of the subject parcels of lands, pending before the PARAD docketed as DARAB Case No. IV-Ca. 0087-92, has been conclusively and finally determined.²⁸

The Court declared that a complete resolution of the application for exemption of the subject parcels of land from the coverage of CARP entails a finding of whether the emancipation patents issued to Adriano, *et al.* are null and void, or valid and subsisting. The Court ratiocinated that it cannot decide on the question of exemption without causing a preemption on the question of the validity of the emancipation patents. Hence, the parties, especially the farmer-tenants, Adriano, *et al.*, must be afforded due opportunity to ventilate their defenses in support of the emancipation patents issued in their names in the proceedings before the DARAB.²⁹

²⁶ Id.

²⁷ Id. at 384

²⁸ Supra note 4.

²⁹ Id.

The Court's Resolution dated July 25, 2012

The Court remanded the case to the Office of the Provincial Adjudicator of Cavite to determine the validity or invalidity of the emancipation patents of the farmer-beneficiaries affected by Remman's application for exemption from the CARP coverage. It ordered the PARAD to inform this Court of its final decision on the matter within five days from its finality.³⁰

The Court received a letter from Assistant Secretary Delfin B. Samson that DARAB Case No. IV-Ca. 0087-92 has been dismissed per Order³¹ dated December 26, 1996 issued by Provincial Adjudicator Barbara P. Tan. The Court, however, noted that said DARAB case was dismissed without prejudice on the basis of a prejudicial question, *i.e.*, validity of the emancipation patents.³²

Hence, to break the cycle, the Court resolved to remand the case to the PARAD of Cavite for a determination of the validity of the emancipation patents.³³

PARAD's Compliance dated August 13, 2020

In its Compliance³⁴ dated August 13, 2020, the Provincial Adjudicator of Cavite informed this Court that a Decision dated January 27, 2020 was rendered declaring as valid the emancipation patents awarded to the farmer-beneficiaries.

The PARAD ruled that the farmer beneficiaries complied with the requirements under P.D. 27 as to membership in a farmer's cooperative, payment of realty taxes, and payment to the owner, hence, they are deemed full owners of the lands. The evidence presented by Adriano, *et al.* shows that the rules were followed in the identification of the landholding. The lands were declared qualified for OLT based on actual use. The claim folders submitted by Agrarian Reform Program Officer (ARPO) II shows that the farmers complied with all the requirements, thus, there is no more reason to disturb their ownership which they validly acquired.

Anent the contention that the landholdings were already reclassified prior to the enactment of P.D. 27 and therefore outside the coverage of the OLT, the PARAD declared that the OLT cannot defeat a reclassification already made before the enactment of P.D. 27. Granting that parts of the land were reclassified prior to the enactment of P.D. 27 (1963 and 1968), still the actual use of said land remains agricultural. Thus, its actual agricultural use defeats such reclassification. The landholdings have been recognized as agricultural and/or agricultural in actual use.

³⁰ Supra note 5.

³¹ *Rollo*, pp. 423-426.

³² Supra note 5.

³³ *Id.*

³⁴ *Id.*

Lastly, the PARAD stated that the emancipation patents have become indefeasible having been issued more than 29 years ago.

Ruling of the Court

Remman's petition is denied. Adriano, *et al.*'s petition is granted.

As earlier stated, the Court deferred the final adjudication of the cases because of the pendency of the DARAB case on the validity of the emancipation patents covering the same parcels of land which are also the subjects of the application for exemption from the CARP coverage filed by Remman. The Court explained that a complete resolution of the application for exemption requires a prior final finding that the emancipation patents issued to Adriano, *et al.* are null and void.

Considering the Decision dated January 27, 2020 of the PARAD declaring as valid the emancipation patents issued to Adriano, *et al.*, Remman's application for exemption from the CARP coverage must perforce be denied. Said Decision of the DARAB had become final and executory on November 16, 2020 per Certificate of Finality³⁵ submitted by the PARAD Adjudicator.

It is clear in the Decision of the PARAD that the emancipation patents³⁶ were validly issued to Adriano, *et al.*, the farmer beneficiaries. The landholdings were declared qualified for OLT. Adriano, *et al.* were able to prove that they complied with all the requirements of the law to obtain full ownership of the land and be issued emancipation patents. These emancipation patents had become indefeasible and incontrovertible, and acquired the same protection accorded to other titles. Adriano, *et al.* are now the owners of the landholdings.

With these findings, the Court sets aside the Decision of the CA granting partial exemption with respect to the 19.065 hectares of the lands and the retention rights of the nine registered landowners, giving them an area of 1.39265³⁷ hectares each or a total of 12.53385 hectares. The whole area of 46.9180 hectares is within the coverage of the OLT of P.D. 27. The emancipation patents given to Adriano, *et al.* as farmer beneficiaries should, therefore, be respected.

It should be noted that it was this Court which ordered for the remand of the case to the PARAD to determine the validity or invalidity of the emancipation patents issued to Adriano, *et al.*, in view of the latter's claim that they were denied due process of law as they were not made parties to Remman's application for exemption before the DAR. This Court granted Adriano, *et al.* the opportunity to present their own evidence

³⁵ *Rollo*, pp. 536-537.

³⁶ *Id.* at 138-205.

³⁷ 1.39265 hectares x 9 registered owners = 12.53385 hectares.



to prove the validity of their emancipation patents and to refute the evidence presented by Remman before the DAR.

From the findings of the PARAD, it was shown that the DAR followed the proper procedure in the determination of the land subject of OLT as well as the identification of potential farmer-beneficiaries. It is now beyond question that the landholdings were qualified for OLT based on actual use. The claim folders submitted by ARPO II of DAR Operations Cesar T. Pingco, likewise, show that the farmer beneficiaries complied with all the requirements of the law.

Remman vigorously insists that the lands had ceased to be agricultural lands by virtue of the zoning classification by the *Sangguniang Bayan* of Dasmariñas, Cavite, and approved by the HSRC, now the HLURB, declaring them as residential. Also, the lands are "strip lands" reserved for uses other than agricultural, and that these are urban lands under R.A. 7279³⁸ and R.A. 6657.

The Court has already ruled on this matter. In the Resolution³⁹ dated September 27, 2006, the Court emphasized that the reclassification of lands to non-agricultural cannot be applied to defeat vested rights of tenant-farmers under P.D. 27. To quote:

Indeed, in the recent case of *Sta. Rosa Realty Development Corporation v. Amante*, where the Court was confronted with the issue of whether the contentious property therein is agricultural in nature on the ground that the same had been classified as "park" since 1979 under the Zoning Ordinance of Cabuyao, as approved by the HLURB, the Court said:

The Court recognizes the power of a local government to reclassify and convert lands through local ordinance, especially if said ordinance is approved by the HLURB. Municipal Ordinance No. 110-54 dated November 3, 1979, enacted by the Municipality of Cabuyao, divided the municipality into residential, commercial, industrial, agricultural and institutional districts, and districts and parks for open spaces. It did not convert, however, existing agricultural lands into residential, commercial, industrial, or institutional. While it classified Barangay Casile into a municipal park, as shown in its permitted uses of land map, the ordinance did not provide for the retroactivity of its classification. In *Co vs. Intermediate Appellate Court*, it was held that an ordinance converting agricultural lands into residential or light industrial should be given prospective application only, and should not change the nature of existing agricultural lands in the area or the legal relationships existing over such land.

³⁸ Urban Development and Housing Act of 1992.

³⁹ *Supra* note 4.

A reading of Metro Manila Zoning Ordinance No. 81-01, series of 1981, does not disclose any provision converting existing agricultural lands in the covered area into residential or light industrial. While it declared that after the passage of the measure, the subject area shall be used only for residential or light industrial purposes, it is not provided therein that it shall have retroactive effect so as to discontinue all rights previously acquired over lands located within the zone which are neither residential nor light industrial in nature. *This simply means that, if we apply the general rule, as we must, the ordinance should be given prospective operation only. The further implication is that it should not change the nature of existing agricultural lands in the area or the legal relationships existing over such lands.*⁴⁰(Italics in the original; citations omitted)

Remman invokes the case of *Natalia Realty, Inc. v. DAR*⁴¹ wherein the Court held that lands already classified for residential, commercial, or industrial use, as approved by the HLURB and its precursor agencies, *i.e.*, National Housing Authority and HSRC, prior to June 15, 1988, are not covered by R.A. 6657

As the Court explained in the Resolution⁴² dated September 27, 2006, the case of *Natalia Realty, Inc. v. DAR* should be cautiously applied in light of Administrative Order 04, Series of 2003, which outlines the rules on the Exemption on Lands from CARP Coverage under Section 3 of R.A. 6657, and Department of Justice (DOJ) Opinion No. 44, Series of 1990, *viz*:

I. Prefatory Statement

Republic Act (RA) 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."

Department of Justice Opinion No. 44, Series of 1990, (or "DOJ Opinion 44-1990" for brevity) and the case of *Natalia Realty versus Department of Agrarian Reform* (12 August [1]993, 225 SCRA 278) opines that with respect to the conversion of agricultural land covered by RA 6657 to non-agricultural uses, the authority of the Department of Agrarian Reform (DAR) to approve such conversion may be exercised from the date of its effectivity, on 15 June 1988. Thus, all lands that are already classified as commercial, industrial or residential before 15 June 1988 no longer need any conversion clearance.

However, the reclassification of lands to non-agricultural uses shall not operate to divest tenant[-]farmers of their rights over lands covered by Presidential Decree (PD) No.

⁴⁰ Rollo, pp. 406-407.

⁴¹ G.R. No. 103302, August 12, 1993, 225 SCRA 278.

⁴² Supra note 4.

*27, which have been vested prior to 15 June 1988.*⁴³ (Italics in the original)

It stands that the reclassification of lands to non-agricultural cannot be applied to defeat vested rights of tenant-farmers under P.D. 27, as in the case of Adriano, *et al.*

Besides, during the ocular inspection conducted on November 29, 2019 by the Provincial Sheriff of Cavite and the Clerk of the Adjudicator, it was found out that the landholdings are still agricultural in nature. The Sheriff's Report dated December 3, 2019 states that "(1) the property is agricultural in nature wherein majority of the area was planted to rice, bananas and vegetables like *sitao*, pepper and *palay*; (2) fruit bearing mango trees were spotted along the easement part of the property; and (3) there are areas that are bushy and uncultivated."⁴⁴ Thus, contrary to the DAR ruling excluding the area of 19.065 hectares planted with mango from the coverage of agrarian reform, Adriano, *et al.* were able to substantiate their claim that the landholdings are devoted to *palay* and only the boundary of the property bordering the river is planted with a few mango trees.

Adriano, *et al.* likewise submitted aerial photographs proving the actual status of the land as agricultural in nature.⁴⁵ They also submitted tax declarations issued by the City of Dasmarinas with varying dates of assessments from 1994 to 2019 which indicate that the landholdings are classified as agricultural and/or agricultural in actual use.⁴⁶ Further, the PARAD made a comparison of the zoning map as approved by the HSRC Resolution and the Planning Assistance Service to Rural Area map. It showed that the lands are within the agricultural zone of Dasmarinas Cavite.⁴⁷ The latest certificate dated March 4, 2019 from the Dasmarinas City Planning and Development Office, likewise, confirms that the lands are still classified as agricultural in nature.⁴⁸ Thus, it cannot be denied that the actual use of the landholdings remains agricultural.

The Court deletes the award of retention rights to the nine landowners. While it is true that retention is a substantive right, it appears that the landowners have not filed any application for retention up to this time. Hence, since there is yet no application filed, or there is no indication that the landowners intend to exercise their right of retention. In *Isabelita vda. De Dayao v. Heirs of Robles*,⁴⁹ this Court has held that DAR "has no authority to decree a retention when no application was in the first place ever filed."⁵⁰

⁴³ *Rollo*, p. 406.

⁴⁴ *Id.* at 534.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ 612 Phil. 137 (2009).

⁵⁰ *Id.* at 146.



Besides, the application for retention is already time-barred. Section 4.1 of Administrative Order No. 02-03 gives the landowner the option to exercise the right of retention at any time before he or she receives a notice of CARP coverage.⁵¹ The land was placed under operation land transfer in 1989. However, as the Court observed, the Saulogs did not file any application for retention or even signified their intention to exercise their right of retention in any manner.

Also, the Court cannot consider Remman's application for exemption from the coverage of CARP filed before the DAR as its application for retention so as to give retention rights to Remman. An application for exemption and an application for retention in agrarian reform are two distinct concepts. In *Daez v. Court of Appeals*,⁵² the Court distinguished these concepts as follows:

First. Exemption and retention in agrarian reform are two (2) distinct concepts.

P.D. No. 27, which implemented the Operation Land Transfer (OLT) Program, covers tenanted rice or corn lands. The requisites 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 requisites is absent, the land is not covered under OLT. Hence, a landowner need not apply for retention where his ownership over the entire landholding is intact and undisturbed.

P.D. No. 27 grants each tenant of covered lands a five (5)-hectare lot, or in case the land is irrigated, a three (3)-hectare lot constituting a family size farm. However, said law allows a covered landowner to retain not more than seven (7) hectares of his land if his aggregate landholding does not exceed twenty-four (24) hectares. Otherwise, his entire landholding is covered without him being entitled to any retention right.

Consequently, a landowner may keep his entire covered landholding if its aggregate size does not exceed the retention limit of seven (7) hectares. In effect, his land will not be covered at all by the OLT program although all requisites for coverage are present. LOI No. 474 clarified the effective coverage of OLT to include tenanted rice or corn lands of seven (7) hectares or less, if the landowner owns other agricultural lands of more than seven (7) hectares. The term "other agricultural lands" refers to lands other than tenanted rice or corn lands from which the landowner derives adequate income to support his family.

Thus, on one hand, *exemption from coverage of OLT* lies if: (1) the land is not devoted to rice or corn crops

⁵¹ *Heirs of Nuñez, Sr., v. Heirs of Villanoza*, 809 Phil. 965, 1000 (2017).
⁵² 382 Phil. 742 (2000).

even if it is tenanted; or (2) the land is untenanted even though it is devoted to rice or corn crops.

On the other hand, the requisites for the exercise by the landowner of his *right of retention* are the following: (1) the land must be devoted to rice or corn crops; (2) there must be a system of share-crop or lease-tenancy obtaining therein; and (3) the size of the landholding must not exceed twenty-four (24) hectares, or it could be more than twenty-four (24) hectares provided that at least seven (7) hectares thereof are covered lands and more than seven (7) hectares of it consist of "other agricultural lands".

Clearly, then, the requisites for the grant of an application for exemption from coverage of OLT and those for the grant of an application for the exercise of a landowner's right of retention, are different.⁵³ (Emphasis and italics supplied; citations omitted)

Thus, the Court cannot grant the award of retention rights to the heirs of the Saulogs.

WHEREFORE, the assailed Decision dated April 30, 1997 and the Resolution dated January 8, 1998 of the Court of Appeals in CA-G.R. SP No. 42004 are hereby **SET ASIDE**. The application for exemption filed by petitioner Remman Enterprises, Inc. is **DENIED**. The landholdings with an area of 46.9180 hectares are declared to be within the coverage of Comprehensive Agrarian Reform Program.

SO ORDERED.


ROSMARI D. CARANDANG
Associate Justice

⁵³ Id. at 750-752.

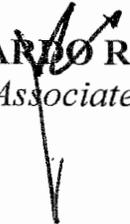
WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



RICARDO R. ROSARIO
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

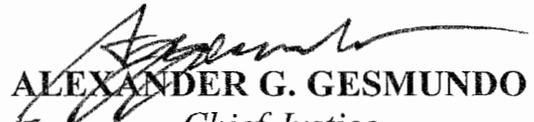
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC MARIO VICTOR F. LEONEN
Associate Justice

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.



ALEXANDER G. GESMUNDO
Chief Justice