



Republic of the Philippines  
Supreme Court  
Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapidan*  
WILFREDO V. LAPIDAN  
Division Clerk of Court  
Third Division

JAN 10 2018

THIRD DIVISION

ALFONSO DIGAN, TIBALDO BUELTA,  
BERNARDO MARIANO, SANTIAGO  
ACQUIDAN, FERNANDO AGNNO,  
JOHNNY ORIE and FELIMON  
GACETA (deceased) rep. by his wife  
LOLITA GACETA,  
Petitioners,

- versus -

G.R. No. 183004

Present:

VELASCO, JR., J.,  
*Chairperson,*  
BERSAMIN,\*  
LEONEN,  
MARTIRES, and  
GESMUNDO,\*\* JJ.

NOEMI MALINES,  
Respondent.

Promulgated:

December 6, 2017,

X ----- *Wilfredo V. Lapidan* ----- X

DECISION

MARTIRES, J.:

This petition for review on certiorari seeks to reverse and set aside the 3 January 2008 Decision<sup>1</sup> and 20 May 2008 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 98012, which reversed and set aside the 4 October 2006 decision<sup>3</sup> of the Department of Agrarian Reform Arbitration Board (DARAB) Central Office in DARAB Case Nos. 9319 & 13535, and reinstated the 13 November 2003 decision of the Provincial Adjudicator (PA) in DARAB Case No. 1-03297-03-I.S. (the *second DARAB case*). *PM*

\* On Official Leave.

\*\* On Leave.

<sup>1</sup> Penned by Associate Justice Agustin S. Dizon, with Associate Justice Amelita G. Tolentino, and Associate Justice Lucenito N. Tagle, concurring, *rollo*, pp. 50-58.

<sup>2</sup> *Id.* at 47-48.

<sup>3</sup> Penned by DAR Adjudication Board Member Delfin B. Samson, with Board Member Augusto P. Quijano, Board Member Edgar A. Igano, and Board Member Ma. Patricia P. Rualo-Bello, concurring, *id.* at 169-174.

## THE FACTS

Modesta Paris (*Paris*) was the owner of three (3) parcels of agricultural land situated in the Municipality of Cervantes, Ilocos Sur, with an aggregate area of 318,876 square meters (31.89 hectares). The three (3) parcels of land were registered under Transfer Certificates of Title (*TCT*) Nos. T-1420, T-3244, and T-3245 with respective land areas of 228,444 square meters (22.84 hectares), 45,216 square meters (4.52 hectares), and 45,216 square meters (4.52 hectares).<sup>4</sup>

In 1972, the landholdings of Paris were placed under the coverage of Operation Land Transfer (*OLT*) pursuant to Presidential Decree (*P.D.*) No. 27. In December 1972, the landholdings of Paris were consolidated and then subdivided into six (6) lots. Sometime in 1976, the Department of Agrarian Reform (*DAR*) identified herein petitioners as among the qualified farmer-beneficiaries of the landholdings of Paris.<sup>5</sup>

On 29 November 1978, Paris sold to respondent Noemi Malines (*Malines*) and Jones Melecio (*Melecio*) one of the six lots from her landholdings containing an area of 52,419 square meters or 5.2 hectares (*subject land*), with Malines acquiring 45,668.25 square meters or 4.567 hectares and Melecio acquiring 6,750.75 square meters or 0.675 hectare. Petitioners gave their consent to the said sale by virtue of a Joint Affidavit of Waiver,<sup>6</sup> dated 31 October 1978. On 12 December 1978, TCT No. T-16519 covering the subject land was issued in favor of the respondents.<sup>7</sup>

Later, unknown to Malines and Melecio, the Register of Deeds (*RD*) of Ilocos Sur cancelled TCT No. T-16519. Thereafter, Emancipation Patents<sup>8</sup> (*EP*) covering the subject land were issued to the petitioners on 11 May 1989, which were subsequently registered with the RD of Ilocos Sur on 8 November 1989, to wit:

TCT No. EP 1211	441 sqm	Tibaldo Buelta
TCT No. EP 1213	524 sqm	Fernando Agnno
TCT No. EP 1217	1,552 sqm	Bernardo Mariano
TCT No. EP 1225	1,238 sqm	Johnny Orié
TCT No. EP 1231	804 sqm	Alfonso A. Digan
TCT No. EP 1240	7,381 sqm	Felimon Gaceta
TCT No. EP 1246	1,023 sqm	Santiago Acquidan

<sup>4</sup> Records (DARAB Case No. 148-156-99-I.S.); pp. 40-42.

<sup>5</sup> Id. at 43-44.

<sup>6</sup> Id. at 8.

<sup>7</sup> Id. at 6-7.

<sup>8</sup> Id. at 9-26.



***The First DARAB Case***

Upon discovery of the cancellation of their title, and the issuance of EPs covering the subject land in favor of petitioners, Malines and Melecio filed a Petition for the Cancellation of the EPs<sup>9</sup> issued to the petitioners before the Provincial Agrarian Reform Adjudication Board (*PARAD*) in Vigan City, Ilocos Sur. The case was docketed as DARAB Case No. 85-98-I.S.

In the said petition, Malines and Melecio alleged, among others, that the sale of the subject land was with the consent of the petitioners who consented to the said conveyance through a joint affidavit of waiver; that their respective shares in the subject land forms part of their retained area under either P.D. No. 27 or Republic Act (*R.A.*) No. 6657; that they were never informed of the taking of the subject land in grave violation of their constitutional right to due process; that they did not receive any sum from the petitioners or from the Land Bank of the Philippines (*LBP*) as compensation for the subject land; and that the EPs issued to herein petitioners were null and void considering that no Certificate of Land Transfer (*CLT*) were previously issued in their favor.

In their Answer,<sup>10</sup> herein petitioners admitted that no CLT was issued in their favor prior to the issuance of the EPs. They further averred that Malines and Melecio, just like them, had been identified as farmer-beneficiaries of the subject land as evidenced by the lot description<sup>11</sup> therefor. They however impugned the validity of the sale of the subject land alleging that the same was executed to undermine the intent and provisions of P.D. No. 27 and the letters of instruction, memoranda, and directives in relation thereto.

On 15 December 1998, the PA rendered a decision<sup>12</sup> dismissing the petition for cancellation. The PA ruled that the validity and regularity of the issuance of the questioned EPs must be maintained based on the presumption of regularity in the performance of official duties. It further opined that the sale of the subject land was done to subvert the intent and purpose of the agrarian reform laws. The dispositive portion of the said decision reads:

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<sup>9</sup> Id. at 1-4.

<sup>10</sup> Id. at 36-39.

<sup>11</sup> Id. at 46-47.

<sup>12</sup> Id. at 65-66.

WHEREFORE, premises considered, judgment is rendered DISMISSING the instant case, and directing the private respondents to pay their respective amortizations.<sup>13</sup>

Malines and Melecio moved for the reconsideration of the PA's decision.<sup>14</sup> The motion for reconsideration was given due course and the case was re-docketed as DARAB Case No. 148-156-99-I.S.<sup>15</sup> On 17 August 1999, however, the motion was denied for the movants' failure to appear at the scheduled hearing for their presentation of additional evidence.<sup>16</sup>

On 28 December 1999, only Malines elevated an appeal before the DARAB Central Office.<sup>17</sup> The appeal was docketed as DARAB Case No. 9319.

### *The Second DARAB Case*

During the pendency of DARAB Case No. 9319, Malines filed before the PARAD a Petition for Declaration of Nullity and/or Cancellation of the subject EPs.<sup>18</sup> The petition was docketed as DARAB Case No. 1-03-297-03-I.S. Malines raised petitioners' failure to pay their respective amortizations as an additional ground for the cancellation of the questioned EPs. It pointed out that the LBP issued a certification,<sup>19</sup> dated 11 March 2003, to the effect that it did not receive any Land Transfer Claim Folder in the name of Malines.

In its 13 November 2003 decision,<sup>20</sup> the PA disqualified petitioners from being beneficiaries of the DAR's OLT program for their failure to pay their respective amortizations. Consequently, the PA ordered the cancellation of the EPs issued in their names.

Petitioners moved for reconsideration, but the same was denied by the PA in its order, dated 13 January 2004.<sup>21</sup>

On 28 January 2004, petitioners filed their notice of appeal.<sup>22</sup> The appeal was docketed as DARAB Case No. 13535.



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<sup>13</sup> Id. at 66.

<sup>14</sup> Id. at 72-81.

<sup>15</sup> Id. at 110.

<sup>16</sup> Id. at 119.

<sup>17</sup> Id. at 141-150.

<sup>18</sup> Records (DARAB Case No. 1-03297-03-I.S.); pp. 1-6.

<sup>19</sup> Id. at 38.

<sup>20</sup> Penned by Provincial Adjudicator Atty. Roberto E. Caoayan; id. at 73-75.

<sup>21</sup> Id. at 86.

<sup>22</sup> Id. at 94.

On 26 February 2004, petitioners filed a motion for the consolidation of DARAB Case No. 9319 and DARAB Case No. 13535.<sup>23</sup> The DARAB Central Office granted the motion for consolidation in its Order,<sup>24</sup> dated 9 November 2005.

### ***The DARAB Central Office Ruling***

In its decision, dated 4 October 2006, the DARAB Central Office affirmed the PA's 15 December 1998 decision insofar as it dismissed the first DARAB case. It likewise dismissed the second DARAB case, thereby reversing the PA's 13 November 2003 decision therein.

The DARAB ruled that there was no violation of the right to due process when no notice of coverage of the subject land was served to Malines and Melecio. It reasoned that at the time the subject land was placed under the OLT coverage, it was still under the ownership of Paris and, as such, separate notices to Malines or Melecio were no longer necessary. It further ruled under DAR Memorandum Circular No. 8, Series of 1974, that the transfer of ownership of tenanted rice and/or corn lands after 21 October 1972, except to actual tenant-farmers or tillers, is prohibited. Thus, the sale of the subject land is void having been executed in violation of the provisions of P.D. No. 27.

As to the allegation of failure to pay the amortizations, the Board pointed out that upon the coverage of the subject landholding under the OLT, the farmer-beneficiaries may no longer be required to pay the landowner their lease-rentals as they were to pay instead the amortization to the LBP. And even assuming that the farmer-beneficiaries indeed failed to pay the value of the subject land, the proper remedy would be to ask for the payment of just compensation from the DAR or the LBP and not for the cancellation of the subject EPs.

The dispositive portion of the decision reads:

WHEREFORE, premises considered, the decision dated 15 December 1998 is MODIFIED, dismissing the petition for cancellation of EP. As to the decision dated 13 November 2003, the same is REVERSED and SET ASIDE and a new judgment is entered DISMISSING the petition.



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<sup>23</sup> Id. at 96-99.

<sup>24</sup> Records, (DARAB Case Nos. 9319 & 13535); pp. 223-224.

SO ORDERED.<sup>25</sup>

Aggrieved, Malines filed a petition for review before the CA.<sup>26</sup>

### *The CA Ruling*

In its assailed decision, the CA reversed the DARAB Central Office's 4 October 2006 decision and reinstated the PA's 13 November 2003 decision in the second DARAB case.

In finding for Malines, the CA ruled that the subject land is exempt from OLT coverage because it is part of her and Melecio's retained areas considering that it is less than seven (7) hectares in land area, pursuant to DAR Memorandum Circular No. 2-14, Series of 1973. The appellate court likewise noted that no evidence was presented to show that Malines was notified of the taking of her property. Thus, her right to due process of the law was violated. The dispositive portion of the assailed decision provides:

WHEREFORE, the impugned Decision of the public respondent dated October 4, 2006 is REVERSED and SET ASIDE. The Decision of the Provincial Adjudicator dated November 13, 2003 is REINSTATED.

No costs.

SO ORDERED.<sup>27</sup>

Petitioners moved for reconsideration, but the same was denied by the CA in its resolution, dated 20 May 2008.

Hence, this present petition raising the following:

## **THE ISSUES**

### **I**

**WHETHER OR NOT THE FINDINGS OF THE HONORABLE COURT OF APPEALS REVERSING AND SETTING ASIDE THE DECISION OF PUBLIC RESPONDENT DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD (DARAB) SOLELY ON REASON THAT THE SUBJECT AGRICULTURAL LAND IS PART OF THE LANDOWNER'S RETAINED**

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<sup>25</sup> Id. at 230.

<sup>26</sup> *Rollo*, pp. 178-194.

<sup>27</sup> Id. at 57.



AREA WHERE IN TRUTH AND IN FACT, AND RECORDS WOULD ATTEST THAT NO ORDER HAS BEEN ISSUED BY THE DAR, NEITHER WAS THERE AN APPLICATION FOR RETENTION.

## II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN NOT TAKING COGNIZANCE THAT: (1) UPON COVERAGE OF THE SUBJECT PROPERTY UNDER OPERATION LAND TRANSFER RESPONDENTS, WHO ACQUIRED THE SAME TWO (2) YEARS AFTER ITS COVERAGE CAN STILL EXERCISE THE RIGHT OF RETENTION; AND (2) THE EMANCIPATION PATENTS HAVE BECOME INDEFEASIBLE ONE (1) YEAR FROM THE DATE OF ISSUANCE.

## III

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN NOT TAKING COGNIZANCE THAT AT THE TIME OF COVERAGE OF THE SUBJECT LAND UNDER OPERATION LAND TRANSFER THE PROPERTY SUBJECT OF CONTROVERSY WAS STILL OWNED BY THE PREVIOUS OWNER MODESTA PARIS, HENCE, PETITIONERS HEREIN HAS VESTED RIGHTS PROTECTED BY THE GOVERNMENT PARAMOUNT OVER THE RIGHTS OF HEREIN RESPONDENTS WHO ACQUIRED THE SAME TWO (2) YEARS AFTER THE DAR HAS PLACED THE PROPERTY UNDER ITS PROGRAM.

## IV

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN FINDING THAT THERE WAS A VIOLATION OF DUE PROCESS OF LAW WHEN THE SUBJECT AGRICULTURAL LAND WAS PLACED UNDER THE OPERATION LAND TRANSFER PURSUANT TO PRESIDENTIAL DECREE NO. 27.<sup>28</sup>



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<sup>28</sup> Id. at 26.

### THE COURT'S RULING

The errors assigned by the petitioners could be summarized into a singular issue – whether the appellate court erred in ordering the cancellation of their respective EPs.

The Court affirms the result of the 03 January 2008 Decision but for reasons entirely different from those advanced by the appellate court.

#### ***Malines could not Claim any Right of Retention***

P.D. No. 27, issued on 21 October 1972, covers tenanted rice and corn lands. It proclaimed the entire country as a land reform area and decreed the emancipation of tenants from bondage of the soil. Upon its issuance, the tenant-farmer was deemed owner of a portion of the land he tills constituting a family-sized farm of five (5) hectares, if not irrigated, and three (3) hectares, if irrigated.

To further protect the rights of tenant-farmers, P.D. No. 27 decreed that titles to land acquired pursuant to it or the land reform program shall not be transferable except by hereditary succession or to the Government in accordance with its provisions and other pertinent laws and regulations.

P.D. No. 27 also provided a mechanism to mitigate the effects of compulsory land acquisition. To strike a balance between the rights of the landowners and the tenant, landowners covered by P.D. No. 27 were given the right to retain a portion of their lands provided that such retained portion shall not exceed seven (7) hectares, and provided further that the said landowner was cultivating or will cultivate such retained land as of 21 October 1972.

The appellate court ruled that the OLT coverage over the subject land violated Malines' right of retention considering that the subject land or at least her share thereof was below the retention limit.

The Court disagrees.

In the first place, Malines, as well as Melecio, could not be the landowner referred to in P.D. No. 27 or the several letters of instruction issued in relation thereto. From the wordings of P.D. No. 27, the "landowner" referred to pertains to a person identified to be the owner of



tenanted rice or corn land as of 21 October 1972. This is only logical considering that tenanted rice and corn lands were deemed acquired by the Government in favor of the tenant-farmers as of the date of the issuance of P.D. No. 27, and any transfer of ownership thereof is void. As such, it would not be possible to have a new “landowner” after 21 October 1972, except if such land was acquired by hereditary succession.

Thus, under P.D. No. 27, the right of retention may only be claimed and exercised by the landowner identified to be such as of 21 October 1972, and/or any of his heirs who inherited such agricultural lands after the said date. Consequently, Malines and Melecio, who were neither the owners of the subject land when P.D. No. 27 was issued nor were the heirs of the landowner thereof, could not claim the right of retention. Therefore, the Court finds erroneous the ruling of the CA that respondents’ right of retention was violated.

***The direct sale of the subject land  
in favor of Malines and Melecio is  
valid.***

It is settled that an appeal, once accepted by this Court, throws the entire case open to review. This Court has the authority to review matters not specifically raised or assigned as error by the parties, if their consideration is necessary in arriving at a just resolution of the case.<sup>29</sup> Furthermore, although not a trier of facts, this Court may analyze, review, and even reverse findings of facts if there is compelling reason to do so, 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 such facts was manifestly mistaken.<sup>30</sup>

After a thorough review of the records, the Court finds that the PA, the DARAB Central Office, and the CA overlooked and misapprehended an admitted fact crucial to the resolution of this case.

As previously discussed, P.D. No. 27 prohibited the transfer of rice and corn lands. Thus, in a plethora of cases,<sup>31</sup> the Court struck down contracts of sale involving tenanted rice and corn lands executed after 21 October 1972, in violation of the provisions of P.D. No. 27.

Nevertheless, not all conveyances involving tenanted rice and corn lands are prohibited. To achieve its purpose, P.D. No. 27 laid down a system

<sup>29</sup> *Barcelona v. Lim*, 734 Phil. 767, 795 (2014).

<sup>30</sup> *Almagro v. Amaya*, 711 Phil. 493, 504 (2013).

<sup>31</sup> *Saguinsin v. Liban*, G.R. No. 189312, 11 July 2016, 796 SCRA 99, 104.

for the purchase by tenant-farmers of the lands they were tilling. In furtherance, the DAR issued several memorandum circulars (*MC*) which recognized the validity of a direct sale between the landowner and the tenant-beneficiary under a direct payment scheme (*DPS*) and at liberal terms and subject to conditions.<sup>32</sup> Among these regulations are MC Nos. 2 and 2-A, series of 1973, and MC No. 8, series of 1974. MC No. 2-A, which amended MC No. 2, provides the following explicit prohibition, among others:

h. Transfer of ownership after October 21, 1972, **except to the actual tenant-farmer tiller**. If transferred to him, the cost should be that prescribed by Presidential Decree No. 27. (emphasis supplied)

On the other hand, MC No. 8, series of 1974, which repealed and/or modified MC Nos. 2 and 2-A and other circulars or memoranda inconsistent with it, provided that:

4. No act shall be done to undermine or subvert the intent and provisions of Presidential Decrees, Letters of Instructions, Memoranda and Directives, such as the following and/or similar acts:

x x x x

f) Transferring ownership to tenanted rice and/or corn lands after October 21, 1972, **except to the actual tenant-farmers or tillers but in strict conformity to the provisions of Presidential Decree No. 27 and the requirements of the DAR**. (emphasis supplied)

In fine, the general rule is that any transfer of ownership over tenanted rice and/or corn lands after 21 October 1972 to persons other than the heirs of the landowner, via hereditary succession, is prohibited. However, when the conveyance was made in favor of the actual tenant-tiller thereon, such sale is valid.<sup>33</sup>

It is not disputed that ownership over the subject land was transferred by Paris to Malines and Melecio sometime in 1978 or after 21 October 1972. Apparently, judging from this fact alone, the subject transaction is void. However, a reading of petitioners' answer to the petition in the first DARAB case would reveal that this is not the case. In the said answer, petitioners admitted that Malines and Melecio were among those identified as qualified beneficiaries, and were in possession, of the subject land, albeit with the caveat that the sale to them was made to circumvent the provisions of P.D. No. 27, to wit:



<sup>32</sup> *Sigre v. Court of Appeals*, 435 Phil. 711, 719 (2002).

<sup>33</sup> *Borromeo v. Mina*, 710 Phil. 454, 464 (2013).

X.

**That petitioner[s] Jose Melecio and Noemi Malines had been identified as Farmer Beneficiaries being in possession and cultivation of the land particularly Lot No. 4.0 and Lot No. 4-1 respectively, attached hereto and form an integral part and marked as Annex[es] “D-1” and “D-2” are the Survey PSD-014230 (OLT) Lot Description;**<sup>34</sup> (emphasis supplied)

Such admission, having been made in a pleading, is conclusive as against the pleader – the petitioners in this case.<sup>35</sup> It may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.<sup>36</sup> Unfortunately for the petitioners, they failed to contradict their admission.

Clearly, Malines and Melecio being qualified beneficiaries and actual tillers of the subject land, the sale thereof to them is valid. Indeed, the sale of the subject land emancipated Malines and Melecio from the bondage of the soil they were tilling. The very purpose of P.D. No. 27 was therefore achieved. Consequently, the subject land, having been acquired in a valid sale pursuant to P.D. No. 27, could no longer be bound by separate EPs in favor of other persons.

***Petitioners had already abandoned whatever right they may have had over the subject land.***

Another factor which militates against the claim of petitioners is the joint affidavit of waiver they executed. The petitioners never denied its genuineness and its due execution on 31 October 1978, or prior to the execution of the sale of the subject land. In the said affidavit, the petitioners jointly declared:

3. That the owner of said rice land/land-lord-lessor Mrs. Modesta Paris offered by written notice, dated September 20, 1978, to sell to us said rice land by written notice served to us individually;

4. That we hereby manifest and voluntarily through this Joint Affidavit of Waiver that we are not interested to buy said rice land, and that the rice land described above could be offered to other persons, or outside buyers.



<sup>34</sup> Rollo, p. 65.

<sup>35</sup> *Spouses Binarao v. Plus Builders, Inc.*, 524 Phil. 361, 364 (2006).

<sup>36</sup> RULES OF COURT, Rule 129, Section 4.

Under Section 22 of R.A. No. 6657 in relation to DAR Administrative Order (AO) No. 02-94, abandonment disqualifies the beneficiary of the lots awarded under P.D. No. 27.<sup>37</sup> Abandonment has been defined as the willful failure of the beneficiary, together with his farm household, to cultivate, till, or develop his land to produce any crop, or to use the land for any specific economic purpose continuously for a period of two calendar years.<sup>38</sup> For abandonment to exist, the following requisites must concur: (1) a clear intent to abandon; and (2) an external act showing such intent.<sup>39</sup> What is critical in abandonment is intent which must be shown to be deliberate and clear. The intent must be established by the factual failure to work on the landholding absent any valid reason as well as a clear intent, which is shown as a separate element.<sup>40</sup>

In *Buensuceso v. Perez*,<sup>41</sup> the Court had the occasion to rule that an agrarian reform beneficiary who allowed and acquiesced to the execution of a contract of leasehold in favor of another person over the agricultural land awarded to him effectively surrenders his rights over the said land. His act of signing the lease contract, even as a witness, constitutes the external act of abandonment. As in the aforementioned case, the petitioners' execution of the affidavit of waiver demonstrated their clear intent to abandon and surrender their rights over the subject land. Their acts of signing the waiver likewise constituted the external act of abandonment. Thus, they are disqualified to be beneficiaries of the subject land.

***Emancipation Patents issued in favor of the petitioners may still be cancelled.***

Petitioners insist that the EPs issued to them had already become indefeasible after the lapse of one (1) year from their issuance and, thus, could no longer be cancelled.

The argument is misplaced.

Mere issuance of an EP does not put the ownership of the agrarian reform beneficiary beyond attack and scrutiny. EPs issued to such beneficiaries may be corrected and cancelled for violations of agrarian laws,

<sup>37</sup> *Buensuceso v. Perez*, 705 Phil. 460, 475 (2013).

<sup>38</sup> DAR Administrative Order No. 02-94, Article III, Section B.

<sup>39</sup> *Estolas v. Mabalot*, 431 Phil. 462, 471 (2002).

<sup>40</sup> *Buensuceso v. Perez*, supra note 41.

<sup>41</sup> *Id.*

rules and regulations.<sup>42</sup> Under DAR AO No. 02-94, the grounds for the cancellation of registered EPs include:

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;
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 P.D. 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; and
10. Other grounds that will circumvent laws related to the implementation of agrarian reform program.

To recall, petitioners abandoned whatever right they may have over the subject land when they executed a joint affidavit of waiver on 31 October 1978. This alone is sufficient ground for the cancellation of the EPs registered in their names.

Similarly, petitioners' EPs could be cancelled considering that their issuance circumvents laws related to the implementation of the agrarian reform program. Ownership over the subject land had already been

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<sup>42</sup> *Almagro v. Amaya, Sr.*, 711 Phil. 493, 509 (2013).



transferred to qualified farmer beneficiaries when it was sold in 1978, in accordance with the provisions of P.D. No. 27 and its implementing rules. Since it has not been shown that said acquisition is tainted by any irregularity, Malines and Melecio's respective titles to the subject land must be respected. The subject land cannot, therefore, be awarded to other farmer-beneficiaries because it is no longer available for distribution under P.D. No. 27, and to do so would defeat the very purpose of the agrarian reform law. The EPs of the petitioners, which covers land already conveyed to qualified farmer-beneficiaries through a valid sale, have been irregularly issued and must perforce be declared null and void.

Inasmuch as the Court commiserates with the petitioners' plight, their prayers could not be granted. Sustaining the validity of the subject EPs despite its glaring irregularity and in spite of the fact that the same covers land already legally conveyed to qualified tenants-tillers thereof would unjustly and unduly deprive the latter of their property. Justice is in every case for the deserving, and it must be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.<sup>43</sup>

**WHEREFORE**, the assailed Decision, dated 3 January 2008, of the Court of Appeals in CA-G.R. SP No. 98012 which affirmed the 13 November 2003 Decision of the Provincial Adjudicator in DARAB Case No. 1-03-297-03-I.S. is **AFFIRMED** insofar as it ordered the cancellation of the Emancipation Patents issued in favor of the petitioners.

**SO ORDERED.**

  
**SAMUEL R. MARTIRES**  
Associate Justice

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<sup>43</sup> *Magsaysay Maritime Corporation v. National Labor Relations Commission*, 630 Phil. 352, 369 (2010).

**WE CONCUR:**



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

(On Official Leave)  
**LUCAS P. BERSAMIN**  
Associate Justice

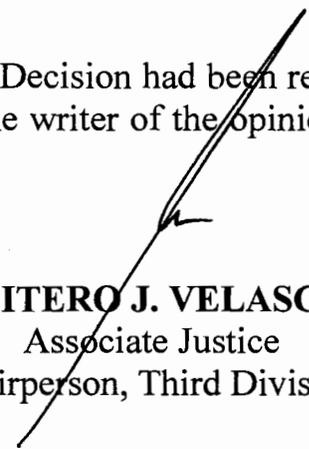


**MARVIC M.V.F. LEONEN**  
Associate Justice

(On Leave)  
**ALEXANDER G. GESMUNDO**  
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

