



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**HEIRS OF JULIO SOBREMONTE and  
FELIPA LABAPIS SOBREMONTE,  
Namely, MARIA LOURDES  
SOBREMONTE de NORBE, DIOSCORA  
SOBREMONTE de BUSLON, NESTOR L.  
SOBREMONTE, AVELINA  
SOBREMONTE DE DELIGERO, HELEN  
SOBREMONTE DE CABASE, LAURA  
SOBREMONTE DE DAGOY and  
RODULFO LABAPIS REPOLLO, ALL  
REPRESENTED BY AVELINA  
SOBREMONTE DELIGERO AS THEIR  
ATTORNEY-IN-FACT,**

Petitioners,

**G.R. No. 206234**

Present:

**CARPIO, J., Chairperson,  
BRION,  
MENDOZA,  
PERLAS-BERNABE,\* and  
JARDELEZA,\*\* JJ.**

Promulgated:

OCT 22 2014 *AW Cabalag*

-versus-

**COURT OF APPEALS, HONORABLE  
VIRGILIO REYES, IN HIS CAPACITY AS  
SECRETARY OF THE DEPARTMENT OF  
AGRARIAN REFORM AND FELICIANO  
TAPIL, MARCELO BAYNO, VICENTE  
BAYNO, ROMUALDO DIAPANA,  
HILARIO RECTA, NEMESIA RECTA,  
POLICARPIO RECTA, AMPARO R.  
DIAPANA, BASILIO SAYSON  
BUENAVENTURA BAYNO AND  
BASILIO BAFLOR,**

Respondents.

X ----- X

\* Designated as Acting Member in lieu of Associate Justice Marvic M.V.F. Leonen, per Special Order No. 1841 dated October 13, 2014.

\*\* Designated as Acting Member in lieu of Associate Justice Mariano C. Del Castillo, per Special Order No. 1838 dated October 13, 2014.

## RESOLUTION

### BRION, J.:

This is a petition for *certiorari* under Rule 65 of the Rules of Court, filed from the resolutions dated January 25, 2011<sup>1</sup> and September 8, 2011<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 05016.

At issue is a 15.4954 hectare-lot in Colonia, Tuburan, Cebu, covered by Transfer Certificate of Title No. 19519 and co-owned by the petitioners-heirs of Julio and Felipa Sobremonte, namely: Maria Lourdes Sobremonte de Norbe, Dioscora Sobremonte de Bulson, Nestor L. Sobremonte, Avelina Sobremonte de Deligero, Helen Sobremonte de Cabase, Laura Sobremonte de Dagoy, and Rodulfo Labapis Repollo (*petitioners*), all represented by Avelina Sobremonte de Deligero as their attorney-in-fact. The title to the property remained registered under the name of Felipa Labapis *vda.* de Sobremonte (*Felipa*) who passed away on February 10, 1997.<sup>3</sup>

In 1972, the lot was placed under the government's Operation Land Transfer (*OLT*) program pursuant to Presidential Decree No. 27.<sup>4</sup> During her lifetime, Felipa filed a protest (dated December 21, 1982) before the Municipal Agrarian Reform Office (*MARO*) in Toledo City. She argued that the subject property could not be acquired under OLT because it had already been partitioned, then sold or donated to her children since March 7, 1972.<sup>5</sup> Felipa filed another protest (dated March 7, 1983) alleging that no tenancy relationship existed between her and the identified farmer-beneficiaries of the property.<sup>6</sup>

In a resolution<sup>7</sup> dated January 24, 1983, the MARO dismissed Felipa's 1<sup>st</sup> protest because the deeds of sale and donation executed in favor of Felipa's children were not registered with the Register of Deeds; thus, the deeds could not serve as the medium for the valid transfers of ownership insofar as the tenant-farmers were concerned and were not reasons to exempt the subject lot from OLT coverage. After further investigation, the MARO also dismissed Felipa's 2<sup>nd</sup> protest and maintained that the lot in question is subject to OLT coverage.<sup>8</sup> Felipa appealed to the Department of Agrarian Reform (*DAR*) Regional Office, Cebu City.

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<sup>1</sup> *Rollo*, pp. 26-27; Penned by CA Associate Justice Pampio A. Abarintos, with Associate Justices Ramon A. Cruz and Myra V. Garcia-Fernandez, concurring.

<sup>2</sup> *Id.* at 28-29.

<sup>3</sup> *Id.* at 86.

<sup>4</sup> DECREERING THE EMANCIPATION OF TENANTS FROM THE BONDAGE OF THE SOIL, TRANSFERRING TO THEM THE OWNERSHIP OF THE LAND THEY TILL AND PROVIDING THE INSTRUMENTS AND MECHANISM THEREFOR, Effective October 21, 1972.

<sup>5</sup> *Rollo*, p. 86.

<sup>6</sup> *Id.* at 31.

<sup>7</sup> *Id.* at 67.

<sup>8</sup> *Id.* at 68-70.

In an order<sup>9</sup> dated July 21, 1987, DAR Regional Director Anastacio M. Limbo, Jr. (*DAR Regional Director*) affirmed the dismissal of Felipa's protests and found that:

There is no showing that the aforementioned deeds of conveyances were registered with the Office of the Register of Deeds. Neither did the protestant (*referring to Felipa*) endeavor to prove that the persons working in the parcel in question know of such transfers before October 21, 1972.

On the other hand, protestant Felipa [*vda.*] de Sobremonte expressly admits in her sworn statement dated March 2, 1983 that she is the owner of the parcel in question. In the same vein, the identified farmers still recognize and consider Felipa Labapis [*vda.*] de Sobremonte as the owner of the parcel in question. (Joint affidavit dated March 2, 1983). It appears, conclusive, therefore, that [the] protestant is still the registered owner of the parcel subject matter of this protest.<sup>10</sup>

It appears that the identified farmer-beneficiaries of the lot in question had executed a joint disclaimer of tenancy. The DAR Regional Director ruled upon this matter as follows:

On the alleged disclaimer of tenancy by the identified tenant-farmers, it appears that the affidavit containing said disclaimer was executed on March 2, 1983, or years after the signatories thereof were identified as tenant-farmers by DAR, Toledo City. Furthermore, records of DAR, Toledo City show that the aforementioned tenant-farmers were duly issued Certificates of Agricultural Leasehold covering definite portions of the parcel in question.

If any legal consequence, therefore, would be attached to the joint affidavit of the seven (7) identified farmers, it would merely be that of surrender of tenancy rights, which is not a ground for excluding an agricultural land from the coverage of Operation Land Transfer. The appropriate recourse under said circumstance would be to reallocate the tillages of the farmers in accordance with the guidelines of this Department.

WHEREFORE, an order is hereby issued:

1. Declaring that the farmlots earlier identified as the tillages of the identified tenant-farmers are covered by Operation Land Transfer pursuant to [Presidential Decree No.] 27;
2. Ordering DAR, Toledo City to verify and/or ascertain whether the identified farmers would insist in surrendering their tenancy rights over the respective farmlots;
3. Ordering the reallocation of the farmlots of the identified farmers in case the tenant-farmers insist in their waivers; [and]

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<sup>9</sup> Id. at 68-70.

<sup>10</sup> Id. at 69.

4. Ordering the dismissal of the instant protest for lack of merit.<sup>11</sup>

Felipa appealed the DAR Regional Director's order to then DAR Secretary Ernesto D. Garilao (*DAR Secretary*).

In an order<sup>12</sup> dated April 16, 1997, the DAR Secretary denied Felipa's appeal and affirmed with modification the DAR Regional Director's July 21, 1987 order:

WHEREFORE, the herein appeal is hereby denied and the Order dated July 21, 1987 of the Regional Director, Region VII is affirmed with the following modifications:

1. The protestant is entitled to retain seven (7) hectares of the landholding in question; and
2. The Regional Director of Region VII is hereby directed to cause the issuance of Certificates of Agricultural Leasehold (CALs) in favor of the tenants of the retained area and Emancipation Patents to the tenants of the areas covered by Operation Land Transfer, if they are already qualified in accordance with existing agrarian rules and regulations.<sup>13</sup>

The DAR Secretary denied the motion for reconsideration subsequently filed by the petitioners (in behalf of deceased Felipa) in an order<sup>14</sup> dated June 2, 1998, hence, the filing of their petition for *certiorari* under Rule 65 with the CA.

**In a resolution<sup>15</sup> dated January 25, 2011, the CA dismissed the petitioners' *certiorari* petition outright because the petitioners used of the wrong remedy: the correct remedy should have been a petition for review under Rule 43, Section 1<sup>16</sup> of the Rules of Court.** The CA denied the petitioners' motion for reconsideration for lack of merit in a resolution<sup>17</sup> dated September 8, 2011; hence, the filing of the present petition for *certiorari* under Rule 65 before this Court.

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<sup>11</sup> Id. at 69-70.

<sup>12</sup> Id. at 30-38.

<sup>13</sup> Id. at 37.

<sup>14</sup> Id. at 39-41.

<sup>15</sup> Id. at 26-27.

<sup>16</sup> SECTION 1. *Scope.* – This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions.

Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law.

<sup>17</sup> *Rollo*, pp. 28-29.

**To support their petition, the petitioners contend that there is no other sufficient remedy to question the grave abuse of discretion committed by the DAR in issuing its April 16, 1997 order and by the CA in dismissing their petition for *certiorari* on mere ground of technicality.**

### **OUR RULING**

**We DISMISS the petition for lack of merit: the CA did not commit any grave abuse of discretion in issuing its assailed resolutions.**

For *certiorari* to prosper, the following requisites must concur: (1) the writ is directed against a tribunal, a board or any officer exercising judicial or quasi-judicial functions; (2) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.<sup>18</sup>

A writ of *certiorari* may be issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction, as its function is limited to keeping the inferior court within the bounds of its jurisdiction.<sup>19</sup>

“Grave abuse of discretion” implies such capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction; in other words, power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility; and such exercise is so patent or so gross as to amount to an evasion of a positive duty or to a virtual refusal either to perform the duty enjoined or to act at all in contemplation of law.<sup>20</sup> Mere abuse of discretion is not enough.<sup>21</sup>

In this case, we find no abuse of discretion, grave or simple in nature, committed by the CA in dismissing the petitioners’ *certiorari* petition for being the wrong mode of appeal. The CA’s dismissal of the *certiorari* petition is, in fact, well-supported by law and jurisprudence.

In *Sebastian v. Morales*,<sup>22</sup> we categorically held that Rule 43 of the Rules of Court shall govern the procedure for judicial review of decisions, orders, or resolutions of the DAR Secretary, and that an appeal taken to the Supreme Court or the CA by the wrong or inappropriate mode shall be dismissed:

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<sup>18</sup> *Madrigal Transport, Inc. v. Lapanday Holdings Corp.*, 479 Phil. 768 (2004).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*; *San Fernando Rural Bank, Inc. v. Pampanga Omnibus Development Corporation and Dominic G. Aquino*, G.R. No. 168088, April 3, 2007, 520 SCRA 564.

<sup>21</sup> *San Fernando Rural Bank, Inc. v. Pampanga Omnibus Development Corporation and Dominic G. Aquino*, *supra* note 20.

<sup>22</sup> 445 Phil. 595, 607 (2003).

x x x Section 60 of R.A. No. 6657, the pertinent portion of which provides that:

An appeal from the decision of the Court of Appeals, or from any order, ruling or decision of the DAR, as the case may be, shall be by a petition for review with the Supreme Court, within a non-extendible period of fifteen (15) days from receipt of a copy of said decision.

Section 60 of R.A. No. 6657 should be read in relation to R.A. No. 7902 expanding the appellate jurisdiction of the Court of Appeals to include:

Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions [x x x] except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

With the enactment of R.A. No. 7902, this Court issued Circular 1-95 dated May 16, 1995 governing appeals from all quasi-judicial bodies to the Court of Appeals by petition for review, regardless of the nature of the question raised. Said circular was incorporated in Rule 43 of the 1997 Rules of Civil Procedure.

Section 61 of R.A. No. 6657 clearly mandates that judicial review of DAR orders or decisions are governed by the Rules of Court. The Rules direct that it is Rule 43 that governs the procedure for judicial review of decisions, orders, or resolutions of the DAR Secretary. By pursuing a special civil action for [*certiorari*] under Rule 65 rather than the mandatory petition for review under Rule 43, [the] petitioners opted for the wrong mode of appeal. Pursuant to the fourth paragraph of Supreme Court Circular No. 2-90, "an appeal taken to the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed x x x."<sup>23</sup>

**WHEREFORE**, we **DISMISS** the present petition for *certiorari* for lack of merit. The resolutions dated January 25, 2011 and September 8, 2011 of the Court of Appeals in CA-G.R. SP No. 05016 are hereby **AFFIRMED**. No pronouncement as to costs.

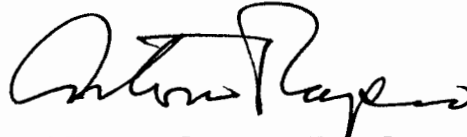
**SO ORDERED.**

  
ARTURO D. BRION  
Associate Justice

<sup>23</sup>

Id. at 560-561.

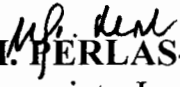
WE CONCUR:




**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**JOSE CATRAL MENDOZA**  
Associate Justice



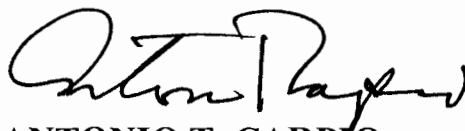
**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice

**ATTESTATION**


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



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice