Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

DEPARTMENT OF AGRARIAN REFORM,
Petitioner,

- versus -

JUSTINIANA ITLIONG, DAVID C. DAKANAY AND THE OTHER LEGITIMATE CHILDREN OF THE LATE LOURDES CADIZ DAKANAY
Respondents.

G.R. No. 235086

Present:

GESMUNDO, *C.J.*, Chairperson
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, *JJ.*

Promulgated:

JUL 06 2022

x - x

DECISION

ZALAMEDA, *J.*:

Social justice calls for the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated.[1] Under the policy of social justice, the law bends over backwards to accommodate the interests of the working class, such as landless farmers and farmworkers, on the humane justification that those with less privilege in life should have more in law.[2]

---

1 *Calalang v. Williams,* 70 Phil. 726, 734 (1940).

2 *See Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, 487 Phil. 531, 599 (2004) citing *Uy v. Commission on Audit,* 385 Phil. 324 (2000).

The Case

This Petition for Review on *Certiorari*[3] under Rule 45 of the Rules of Court seeks to reverse and set aside the Decision[4] dated 22 May 2017 and the Resolution[5] dated 11 September 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 140066.

Antecedents

The subject matter in this case is an 11.16885-hectare landholding which is a portion of a 22.3377-hectare agricultural landholding covered by Transfer Certificate of Title (TCT) No. T-104039, situated in Tagpore, Panabo City, Davao, and conjugally owned by Spouses Emigdio and Lourdes Dakanay (individually, Emigdio, and Lourdes).[6]

On 20 September 2004, Lourdes died leaving behind her husband Emigdio and their four children, namely: David, Mejella, Phoebe, and Antoinette ("respondents David *et al.*"). Upon the death of Lourdes, the subject landholding was transmitted to her heirs. However, Emigdio waived all his hereditary rights over the same in favor of his four children by virtue of an Extrajudicial Partition of Estate dated 01 October 2004.[7]

On 31 May 2005, the Municipal Agrarian Reform Officer (MARO) issued a Notice of Coverage (NOC) over the entire 22.3377 hectares, addressed to Emigdio, who received it on 09 June 2005. Then, on 02 August 2005, respondents David, *et al.* filed a Petition to Lift Notice of Coverage with respect to their share totaling to 11.16885 hectares. They claim that since the share of each heir is only 2.7922 hectares, which is below the retention limit of five hectares provided for by law, it should not be covered by the Comprehensive Agrarian Reform Program (CARP) under Republic Act No. (RA) 6657,[8] otherwise known as the Comprehensive Agrarian Reform Law (CARL) of 1988.[9]

---

3 *Rollo*, pp. 3-17.

4 Id. at 25-31. Penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Romeo F. Barza and Victoria Isabel A. Paredes.

5 Id. at 33-34. Penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Romeo F. Barza and Victoria Isabel A. Paredes.

6 Id. at 95-97. Per Regional Director Rodolfo T. Inson, CESO III, in its Order dated 15 February 2006, the land involved is an agricultural land consisting of an area of 22.3377 hectares, more or less, embraced within TCT No. T-104039, located at Tagpore, Panabo City, and registered in the name of Emidio [sic] P. Dakanay.

7 Id. at 26.

8 Entitled "AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES." Approved on 10 June 1988.

9 *Rollo*, p. 26.

Regional Director Rodolfo T. Inson (Regional Director Inson) of the Department of Agrarian Reform (DAR) issued an Order[10] dated 15 February 2006 denying the Petition to Lift Notice of Coverage over the subject landholding. Regional Director Inson cited the Memorandum dated 18 October 2002 of the Undersecretary for Policy, Planning, and Legal Affairs of DAR (Memorandum), which contains the department's legal opinion on whether the heirs of landowners who died after 15 June 1988, which is the effectivity of RA 6657, are entitled to five-hectare retention each. In the said Memorandum, DAR opined that only registered owners as of the effectivity of RA 6657 are entitled to five-hectare retention. In cases of landowner's death after 15 June 1988, the heirs shall divide the proceeds of the land covered by RA 6657 in accordance with the law on succession.[11] In turn, the Memorandum cited the Handbook for CARP Implementors, *viz.*:

> *Note, however, that if the parents died after June 15, 1988, the land may be entirely acquired and distributed if the children are neither actual tillers or direct farm managers. If they are, they will each be entitled to an award of three (3) hectares. Otherwise, they will only be entitled to the compensation for the land. But the land will be acquired and distributed under CARP. Moreover, the DAR and the ROD will no longer allow the partition of the property except in favor of the qualified beneficiaries. This is in line with the fact that as of June 15, 1988 by operation of law, all lands in excess of the retention limit are already covered by CARP. x x x*[12]

The dispositive portion reads:

> **IN VIEW OF THE FOREGOING,** Order is hereby issued denying the instant petition for utter lack of merit.[13]

In the Resolution[14] dated 18 May 2006, respondents David *et al.*'s Motion for Reconsideration was denied. Regional Director Inson explained that for purposes of CARP coverage, inclusive of the subject land under RA 6657 is reckoned on the effectivity of the law, and not on the date of the death of Lourdes, as contended by respondents.[15] Aggrieved, respondents David *et al.* appealed to the DAR Secretary.

On 13 November 2009, then DAR Secretary Nasser Pangandaman (Secretary Pangandaman) granted the appeal, citing Section 16 of RA 6657. Secretary Pangandaman ultimately lifted the NOC over the subject 11.16885

---

[10] Id. at 95-100. Penned by Regional Director Rodolfo T. Inson, CESO III, of Regional Office XI.
[11] Id. at 98.
[12] Id. at 99. Italics in the original.
[13] Id. at 100.
[14] Id. at 101-102.
[15] Id. at 25-31, 101-102.

hectares of agricultural landholdings while maintaining the NOC for the remaining 11.16885 hectares, without prejudice to Emigdio's right of retention. He concluded that the reckoning point of the coverage of the subject landholding under CARP was 31 May 2005, or the date when the NOC was issued to Emigdio, who, unfortunately was no longer the owner of the subject 11.16885 hectare landholding. Hence, the NOC was erroneously sent to Emigdio with respect to the subject landholding.[16]

On 17 December 2009, respondent Justiniana Itliong (respondent Justiniana), as intervenor, filed a Motion for Reconsideration of Secretary Pangandaman's Order claiming that such Order contravenes established guidelines of the DAR and praying that the same be set aside and a new one issued sustaining the NOC over the entire 22.3377 hectares, subject only to Emigdio's right to retain not more than five hectares of the conjugal partnership. Earlier, on 24 August 2005, Justiniana filed a Motion for Leave of Court to Intervene in the proceedings before the DAR and an Opposition to Lift Notice of Coverage alleging that she is representing her late husband who was a tenant of the subject landholdings, but the same was not acted upon.[17]

In an Order[18] dated 08 August 2012, then DAR Secretary Virgilio De Los Reyes (Secretary De Los Reyes) granted respondent Justiniana's Motion for Reconsideration thereby reversing Secretary Pangandaman's Order and consequently, reinstating Regional Director Inson's Orders:

> "While it may be true that David and his siblings had acquired their respective rights over the one-half (½) portion of the subject landholding upon the death of Lourdes on 20 September 2004, they are merely stepping on the shoes of their mother. Their retention rights derive from the right of Lourdes, not from their own. Considering that the [sic] Emigdio and Lourdes, together, are only entitled to a maximum of five (5) hectares of the entire landholding as their retention area, and that Emigdio has already waived his hereditary rights from the estate of Lourdes, then David and his siblings are entitled to a proportionate share of 2.5 hectares (½ of 5 hectares), or 0.625 hectares each.
>
> Considering that the share of the siblings, with respect to the landholding, is 2.7922124 hectares each, then 2.17738124 hectares from each sibling may still be acquired and distributed to the ARBs.
>
> Since Section 6 of R.A. No. 6657, as amended, however states that: 'The right to choose the area to be retained, **which shall be compact or contiguous**, shall pertain, to the landowner...' x x x, Emigdio, David,

[16] Id. at 25-31, 103-107.
[17] Id. at 27.
[18] Id. at 35-41.

> and David's siblings must together choose a five (5) hectare compact and contiguous area within the entire landholding as their retained area."[19]

The *fallo* of the Order reads:

> **WHEREFORE**, premises considered, the present Motion for Reconsideration is **GRANTED**. Consequently, the Order dated 13 November 2009 issued by this Office is hereby **REVERSED** and **SET ASIDE**. The Order dated 15 February 2006 of the Regional Director is **REINSTATED**.
>
> SO ORDERED.[20]

David, *et al.*'s Motion for Reconsideration was denied by Secretary De Los Reyes in his Order dated 18 March 2015.[21]

Ruling of the CA

Before the CA, respondents David, *et al.* contended that: (1) the 11.16885 subject landholding is outside the coverage of the agrarian reform program considering that the NOC was erroneously issued to Emigdio who is no longer its owner; (2) even before the NOC was issued, the subject landholding is already owned by respondents in their respective rights as heirs of Lourdes; and (3) their respective owned area of 2.7922 hectares each do not exceed the retention limit prescribed by law of five hectares each.[22]

In its Decision[23] dated 22 May 2017, the CA ruled in favor of respondents David, *et al.* The appellate court agreed with Secretary Pangandaman's ruling that at the time the NOC was issued, the subject 11.16885-hectare landholding already had several owners. The NOC therefore was erroneously sent to Emigdio with respect to the subject landholding as he was not the landowner thereof, but respondents David, *et al.*[24]

The CA explained that upon the demise of Lourdes, her heirs became co-owners of the subject landholding by intestate succession with the inherent right to apply for exemption or retention. Considering, however, that the subject land was conjugal in nature, Lourdes' half share of the entire

---

19 Id. at 39-40. Emphasis in the original.
20 Id. at 40.
21 Id. at 28.
22 Id. at 27-28.
23 Id. at 25-31.
24 Id. at 29.

22.3377-hectare area was transferred by intestacy to respondents David, *et al.* and their father, giving each heir about 2.2 hectares. Given that Emigdio waived his hereditary share of the estate in favor of his children respondents David, *et al.*, each of them gets a share which is undoubtedly within and below the retention limit.

With the foregoing perspective, David, *et al.*'s right of absolute ownership which accrued from the time their mother left them as heirs to her estate must be respected. The NOC over the subject property did not and cannot alter such rights. Vested rights which have already accrued cannot just be taken away by the expedience of issuing an NOC placing a certain land under the coverage of CARP.[25]

As to respondent Justiniana, the CA held that in the event that she is qualified as a beneficiary, it is just but fair and in keeping with the principles enshrined in the agrarian reform program that her rights to the other 11.16885-hectare agricultural landholding should be recognized and respected, without prejudice to the right of retention of Emigdio.

The dispositive portion of the Decision reads:

> **WHEREFORE**, premises considered, the assailed Orders dated August 8, 2012 and March 18, 2015 issued by DAR Secretary Virgilio R. De Los Reyes are hereby **REVERSED** and **SET ASIDE** and the Order dated November 13, 2009 issued by DAR Secretary Nasser Pangandaman is **REINSTATED**. No costs.
>
> **SO ORDERED**.[26]

Petitioner filed a Motion for Reconsideration, which was denied by the CA in its Resolution[27] dated 11 September 2017. Undeterred, petitioner filed the instant Petition for Review on *Certiorari*, arguing that: (1) the subject landholding is not exempt from the CARP coverage considering that RA 6657, which took effect on 15 June 1988, covers all private lands devoted to or suitable for agriculture; (2) RA 6657 prevails over the New Civil Code; and (3) the NOC was validly issued to Emigdio, who was the registered owner of the subject landholding.[28] Respondent Justiniana, who already passed away, was substituted by her son, Georgino Itliong (Georgino). Georgino adopted the arguments of petitioner.[29]

Issue

---

[25] Id. at 30.
[26] Id. at 31.
[27] Id. at 33-34.
[28] Id. at 3-17.
[29] Id. at 269-271.

Whether the CA erred in holding that the subject property is exempt from DAR coverage under RA 6657.

Ruling of the Court

The instant petition is impressed with merit.

Both the Constitution[30] and RA 6657[31] highlight the underlying principle of the agrarian reform program, that is, to endeavor a more equitable and just distribution of agricultural lands taking into account, among others, social justice and equity considerations. RA 9700[32] amended several provisions of RA 6657, but the thrust of the CARP remains the same. With the foregoing primary considerations in mind, We will now address the questions brought before this Court.

The inclusion of the subject landholding and status as landowners under RA 6657 are reckoned at the time of its effectivity,

---

[30] CONSTITUTION, Article XIII, Section 4 provides:

> Agrarian and Natural Resources Reform
>
> Sec. 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary land-sharing.

[31] Republic Act No. 6657 (1988), Section 2 provides:

> Sec. 2. *Declaration of Principles and Policies.* — It is the policy of the State to pursue a Comprehensive Agrarian Reform Program (CARP). **The welfare of the landless farmers and farmworkers will receive the highest consideration to promote social justice** and to move the nation toward sound rural development and industrialization, and the establishment of owner cultivatorship of economic-size farms as the basis of Philippine agriculture.
>
> To this end, a more equitable distribution and ownership of land, with due regard to the rights of landowners to just compensation and to the ecological needs of the nation, shall be undertaken to provide farmers and farmworkers with the opportunity to enhance their dignity and improve the quality of their lives through greater productivity of agricultural lands. (Emphasis supplied)

[32] Entitled "AN ACT STRENGTHENING THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP), EXTENDING THE ACQUISITION AND DISTRIBUTION OF ALL AGRICULTURAL LANDS, INSTITUTING NECESSARY REFORMS, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 6657, OTHERWISE KNOWN AS THE COMPREHENSIVE AGRARIAN REFORM LAW OF 1988, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR." Approved on 07 August 2009.

or on 15 June 1988.

Petitioner argues that all lands enumerated in RA 6657 are covered by the CARL at the time of its effectivity on 15 June 1988. The sending of NOC is simply a notice to the landowner that DAR will start its acquisition processes over the land. On the other hand, respondents David, *et al.* claim that the NOC is vital to the validity of the coverage under CARP, such that the retention limits should be reckoned from the date of issuance of NOC. They insist that as of the date of issuance of NOC on 31 May 2005, they are already the landowners of the subject landholding and are each entitled to a five-hectare retention limits.[33]

We agree with petitioner. RA 6657 clearly provides that it is **effective immediately** after publication in at least two national newspapers of general circulation.[34] RA 6657 was approved on 10 June 1988 and became effective on 15 June 1988.[35] This is consistent with the overwhelming desire to redress centuries of injustice and past imbalances, which is the cornerstone of RA 6657. To further delay the effectivity of its provisions would not serve its true spirit and laudable intentions. Thus, the inclusion of any land under CARL is likewise determined as of 15 June 1988.

An NOC is a document informing the landowner that his land has been determined by the DAR, on the basis of the latter's preliminary identification, to be under the coverage of the agrarian reform program. It also serves to inform the landowners of: (a) their remedies against the notice and the period within which he or she could avail of them; (b) their rights under the agrarian reform law; and (c) their concomitant obligations and the period within which they should be complied. It commences the compulsory acquisition of private agricultural lands covered under the CARP.[36]

Contrary to respondents David, *et al.*'s position, the date of issuance of NOC does not trigger the coverage of the subject landholding under CARL. As we underscored in *Robustum Agricultural Corp. v. Department of Agrarian Reform*,[37] the issuance of an NOC *merely* initiates a proceeding for compulsory land acquisition and distribution under the agrarian reform program. We explained therein that the date of issuance of such notice is useful only in determining the date of commencement of such proceeding — which is particularly relevant for purposes of applying the period under

---

33 *Rollo*, pp. 11-13.

34 Republic Act 6657 (1988), Section 78.

35 *Land Bank of the Philippines v. Santiago, Jr.*, 696 Phil. 142, 158 (2012).

36 *Robustum Agricultural Corp. v. Department of Agricultural Reform*, 843 Phil. 423 (2018), citing Section 50 of RA 6657, Department of Agrarian Reform Administrative Order No. 07-2011, and AO No. 01-2003.

37 Id.

Section 30 of RA 9700.[38] Simply put, an NOC only facilitates the *process* of implementing RA 6657 on a particular landholding and landowner. In *Heirs of Salas, Jr. v. Cabungcal*,[39] We said that lands not devoted to agricultural activity, including lands previously converted to non-agricultural use prior to the effectivity of RA 6657, were declared outside the coverage of the CARL.[40] In the same vein, the reckoning point in determining coverage under CARL is its effectivity on 15 June 1988.

Similarly, therefore, the status as landowners is determined as of its effectivity. That said, respondents David, *et al.* are not the landowners contemplated by law as of 15 June 1988, but **children of landowners**. They may be awarded three hectares *if* they meet the following qualifications: (a) that he/she is at least 15 years of age, and (b) that he/she is actually tilling the land or directly managing the farm.[41] This is also consistent with the DAR Administrative Order (AO) No. 02-2003,[42] which provides:

> 8.6 A landowner whose landholdings are covered under CARP may retain an area of not more than five (5) hectares thereof. In addition, each of his [or her] children, whether legitimate, illegitimate, or legally adopted, may be awarded an area of not more than three (3) hectares as preferred beneficiary, provided that the child is at least fifteen (15) years old **as of 15 June 1988** and that he [or she] is actually tilling the land or directly managing the farmholding from 15 June 1988 up to the filing of the application for retention and/or the time of the acquisition of the landholding under CARP.[43] (Emphasis supplied.)

There is no conflict between RA 6657 and the Civil Code provisions on succession.

Petitioner argues that RA 6657 prevails over the Civil Code, the former being a special law while the latter a general law. Respondents David, *et al.* contend that the Civil Code is controlling and they conclude that they have inherited the subject land from Lourdes, making each of them landowners in their own right.[44]

Both contentions are incorrect. RA 6657 and the Civil Code may be

---

[38] Section 30. *Resolution of Case.* - Any case and/or proceeding involving the implementation of the provisions of Republic Act No. 6657, as amended, which may remain pending on June 30, 2014 shall be allowed to proceed to its finality and be executed even beyond such date.

[39] 808 Phil. 138 (2017)

[40] Id. at 167-168, citing *Natalia Realty, Inc. v. Department of Agrarian Reform*, 296-A Phil. 271, (1993).

[41] RA 6657 (1988), Section 6.

[42] Rules and Procedures Governing Landowner Retention Rights (2003).

[43] Emphasis supplied.

[44] *Rollo*, pp. 13-14.

applied harmoniously. Statutory construction requires that when faced with apparently irreconcilable inconsistencies between two laws, the first step is to attempt to harmonize the seemingly inconsistent laws. In other words, courts must first exhaust all efforts to harmonize seemingly conflicting laws and only resort to choosing which law to apply when harmonization is impossible.[45]

As discussed above, RA 6657 allows a retention[46] limit of up to five hectares to the landowner and may grant up to 3 hectares to qualified children of the landowner. Therefore, if the child does not meet said qualifications, then he or she may only inherit the property of his or her parents. Stated differently, a child of the landowner who does not meet the qualifications under the law are not entitled to a separate retention limit. In any case, said child is entitled to his or her rights under the provisions of the Civil Code on succession.

After a careful review of the congressional deliberations, We find that this matter has been exhaustively considered and discussed by our legislators. The pertinent portions of the bicameral committee's deliberations are quoted below:

> Sen. Lagman: When we meet the problem on retention, let us give some historical perspective. Historically, the retention limits imposed by laws in agrarian land reform had been diminishing. During the time of Magsaysay, the retention limit per individual was 300 hectares; during the time of Macapagal, it was reduced to 75 hectares; during the early years of Marcos, it was 24; finally, it was reduced to 7 hectares. Historically, it has been diminishing. Are we going to reverse the trend or are we going to follow the trend?
>
> Secondly, historically also, **heirs have never been given retention rights, because we have the law on succession; there can be no inheritance without a decedent.**
>
> **So, I was thinking that we should really have a viable compromise on this retention limit based on historical legislation as well as on our Civil Code, the legal provision. Because when we do not give to heirs any retention limit, it does not mean that they are deprived because the parents are given the retention limit, and that is where they should inherit, and compensation is given to the landlord and that could form part of the inheritance of the heirs.**
>
> I agree with Senator Maceda that if we talk about giving retention limits to heirs, then we should also talk about giving distributive shares to the heirs of the farmers. But what is important is, the retention limit

[45] *De Guzman v. Commission on Audit*, 791 Phil. 376, 380 (2016).
[46] *Rollo*, pp. 13-14.

historically by legislation has been diminishing. I hope we shall not reverse the trend.[47]

x x x x

Sen. Guingona: Mr. Chairman, the main phrase of all these is based on social justice, not individual justice. And the landowner who says, how can I live on seven hectares, it be equally applied in a social sense to the landless: how can he live on three hectares.

And so, while strictly or individually, there may not be individual justice, we are searching for a formula that will implement the intent of the Constitution which is social justice. And if we consider heirs for landlords, we also should consider them for beneficiaries.

The force is dynamic and I am sure out of three or five children of the landlord most, if not all, of them will go into businesses, shipping, trading, industry, and only one or two will really take up farming. Whereas, the poor beneficiary in most cases will, their families will pursue farming because that is where they were brought in, and most likely would pursue.

The Senate bill is five hectares. Perhaps speaking individually, a compromise to come up to seven hectares is feasible in the sense that the Bigger House version is already seven. We ask that seven be more of a compromise, but let us remove the heirs. Thank you.[48]

x x x x

Rep. Lagman: x x x Actually, the House version, even in the original as well as in the final version, the retention is still zero to seven because there are certain factors which determine the retention like, for example, the productivity of the land, the location of the land, the inputs. All of these are contained in the House version, so it could still be zero even. And moreover, **there is an overriding condition that the landlord or even the heir could only retain if he [or she] undertakes to till the land personally or adopts some sort of a labor administration. So if he [or she] does not opt to till the land or employ labor administration, there will be no retention.**[49]

x x x x

Sen. Pimentel: So it is – may I continue – it is clear then that the heir to be entitled to three hectares must necessarily be engaged in farming.

Rep. Lagman: That is right.

Sen. Pimentel: In tilling the soil.

Rep. Lagman: That is right.

---

47 Joint Conference Committee on CARP, p. 25 (12 May 1988)
48 Id. at 25-26.
49 Id. at 26-27.

> Sen. Pimentel: Himself [or herself]?
>
> Rep. Lagman: Himself [or herself] or thru labor administration. That would abolish absentee landlordism.
>
> x x x x
>
> Sen. Aquino: I am very happy that we have arrived already at one agreement, that is zero retention limit for all absentee landlords. That seems to be the House version also. x x x
>
> x x x x
>
> The Chairman (Rep. Zamora): x x x The interpretation is fairly clear: direct legal heirs really mean children, no collateral heirs involved, and it should have been children. There is no distinction between legitimate and illegitimate children – girl or boy. It does not matter either.
>
> Rep. Chavez: May I add to that? Because Edcel just said direct legal heirs, meaning descending and ascending. Ascending only in case there are no descending legal heirs.
>
> Rep. Lagman: There is that exclusion process. But when I was talking with Congressman Antonino, what he really meant was children, just children.[50] (Emphases supplied)

Verily, the legislators envisioned the simultaneous application of RA 6657 and the provisions of the Civil Code on succession. Landowners' children, who do not till the land of their parents, were not intended to have their own retention limit but may only step into the shoes of their decedent parents by virtue of succession.

Notably, We find that any doubt as to this matter has already been clarified by the DAR in its AO No. 02-2009,[51] which explicitly provides that heirs of deceased landowners who died after 15 June 1988 and whose lands are covered under CARP are only entitled to the five hectare retention area of the deceased landowner.[52] Relatedly, in AO No. 07-2011,[53] the DAR instructs that if the landholding at issue is co-owned due to the non-settlement of the estate of a deceased landowner, the phase (in relation to priorities under the law) shall be based on the aggregate size of all the landholdings of the deceased landowner.[54]

---

[50] Id. at 27-29.

[51] Rules and Procedures Governing the Acquisition and Distribution of Agricultural Lands under Republic Act No. 6657 (1988), as amended by Republic Act No. 9700 (2009).

[52] Part B (5) of DAR AO No. 02-2009 provides:

> 5. Heirs of deceased landowners who died after June 15, 1988 and whose lands are covered under CARP are only entitled to the **five (5) hectare retention area of the deceased landowner.** (Emphasis supplied.)

[53] Revised Rules and Procedures Governing the Acquisition and Distribution of Private Agricultural Lands under Republic Act No. 6657 (1988), as amended by Republic Act No. 9700 (2009).

[54] Section 6 (i), Chapter 3 of DAR AO No. 07-2011.

Respondents David, et al. have already waived their right to claim under Lourdes' retention limit.

On 16 January 2003, the DAR issued AO No. 02-2003[55] to clarify the rules governing the landowner's retention right. It provides that spouses who own only conjugal properties under the New Civil Code may retain a total of **not more than five hectares** of such properties.[56] Under Sections 4.1 and 7 thereof, the landowner is given the **option** to exercise the right of retention at any time before he or she receives an NOC by submitting an affidavit stating "*the aggregate area of his [or her] landholding in the entire Philippines*" and "*the names of all farmers . . . actual tillers or occupants, and/or other persons directly working on the land.*"[57] If the landowner fails to manifest an intention to exercise the right to retain within 60 calendar days after receiving the NOC, he or she is considered to have **waived** the right of retention.[58]

Based on the foregoing, Emigdio and Lourdes may exercise their option to retain only up to a total of five hectares, at any time before they receive the NOC. However, there is nothing in the records that show, much less allege, that Emigdio, Lourdes, or herein respondents David, *et al.* (on behalf of Lourdes after she passed away) have signified their intention to exercise the right of retention in any manner before Emigdio received the NOC on 09 June 2005. More importantly, they are considered to have waived their right to exercise said option as they have not filed any affidavit within 60 calendar days from receipt of the NOC as provided under Section 2.2 of AO No. 02-2003. Neither can their Petition to Lift Notice of Coverage be treated as an application for retention as it does not contain the required information under AO No. 02-2003. The records of this case are also bereft of any indication that respondent David, *et al.* met the two statutory qualifications, nor have applied for the three-hectare retention limit for children of landowners. As We declared in several cases, the DAR has no authority to decree a retention when no application was ever filed in the first place.[59]

Therefore, they have waived any right to claim under the retention limit of Lourdes and as aptly concluded by Regional Director Inson, they are only entitled to the proceeds of the subject landholding. Thus, We take

---

[55] Rules and Procedures Governing Landowner Retention Rights (2003).
[56] DAR AO No. 02-2003 (2003), Section 8.8.
[57] *Nuñez v. Heirs of Villanoza*, 809 Phil. 965, 1001 (2017) citing DAR AO No. 02-2003.
[58] Id. citing Section 2.2 of DAR AO No. 02-2003.
[59] *Remman Enterprises, Inc. v. Garilao*, G.R. Nos. 132073 & 132361, 06 October 2021; *Nuñez v. Heirs of Villanoza*, 809 Phil. 965, 969 (2017); and *Vda. De Dayao v. Heirs of Robles*, 612 Phil. 137, 146 (2009).

exception to the ruling of then DAR Secretary De Los Reyes that respondents David, *et al.* may still choose the area to be retained since this right is part and parcel of the option to exercise the retention limit, which, as discussed, is already deemed waived.

As to the heirs of the late respondent Justiniana, in the event that they qualify as beneficiaries to the subject landholding covered by CARP, then their rights under RA 6657 and other pertinent laws should be respected.

Further, petitioner is correct that the NOC sent to Emigdio was validly issued. Under AO No. 04-2005, the NOC shall be addressed to and received by the landowner. As discussed above, Emigdio and Lourdes are the landowners contemplated by RA 6657. Moreover, as pointed out by the DAR, at the time the NOC was issued to Emigdio, the subject landholding under TCT No. T-104039 is still subsisting under his name.[60]

Lastly, while respondents David, *et al.* invoke that their rights as heirs be considered, We must also bear in mind, with greater compassion, the rights of the landless farmers and farmworkers. It may be well to remember that agrarian justice aims to liberate sectors that have been victimized by a system characterized by centuries of oppressive land regimes that has perpetuated their bondage to debt and poverty. Its goal is to dignify those who till our lands — to give land to those who cultivate them.[61]

WHEREFORE, the Petition is **GRANTED**. The assailed Decision dated 22 May 2017 and the Resolution dated 11 September 2017 of the Court of Appeals in CA-G.R. SP No. 140066 are **REVERSED** and **SET ASIDE**. The Order dated 08 August 2012 of the Secretary of the Department of Agrarian Reform is **REINSTATED** with **MODIFICATION** that herein respondents David C. Dakanay and other legitimate children of Lourdes C. Dakanay are entitled to the proceeds of the subject landholding, but they may no longer exercise the right of retention under Section 6 of Republic Act No. 6657.

SO ORDERED.

RODIL V. ZALAMEDA
Associate Justice

---

[60] *Rollo*, p. 285.
[61] *See Spouses Franco v. Spouses Galera, Jr.*, G.R. No. 205266, 15 January 2020.

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

RAMON PAUL L. HERNANDO
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to the Section 13, Article VIII of the Constitution, 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

CERTIFIED TRUE COPY

LIBRADA C. BUENA
Division Clerk of Court
First Division
Supreme Court