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FIRST DIVISION

[G.R. No. 200454. October 22, 2014]

HOLY TRINITY REALTY & DEVELOPMENT CORPORATION, *petitioner, vs.* **VICTORIO DELA CRUZ, LORENZO MANALAYSAY, RICARDO MARCELO, JR. and LEONCIO DE GUZMAN,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; PLEADINGS; VERIFICATION; RESPONDENTS BECAME THE REAL PARTIES IN INTEREST WHEN THE DAR ISSUED THE EMANCIPATION PATENTS (EPs), GIVING THEM THE REQUISITE PERSONALITY TO SIGN THE VERIFICATION. —** We cannot also subscribe to the argument that the respondents were not appropriate parties to sign the verification. They were, considering that when the DAR issued the EPs, they became the real parties in interest in the proceedings, giving them the requisite personality to sign the verification. x x x In any event, the respondents, as the identified beneficiaries, had legal standing and interest to intervene to protect their rights or interests under Republic Act No. 6657.

2. **ID.; APPEALS; CA CAN PASS UPON MATTERS RELATED TO THE ISSUES RAISED BY THE PARTIES EVEN IF NOT ASSIGNED AS ERRORS ON APPEAL.—** [T]he CA is vested with sufficient authority and discretion to review matters, not assigned as errors on appeal, if it finds that consideration thereof is necessary in arriving at a complete and just resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice. In fact, the CA is possessed with inherent authority to review unassigned errors that are closely related to an error properly raised, or upon which the determination of the error properly assigned is dependent, or where it finds that consideration thereof is necessary in arriving at a just decision of the case. It cannot be gainsaid that the validity of the EPs was closely intertwined

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with the issue of whether the Dakila property was covered by the agrarian reform laws.

3. LABOR AND SOCIAL LEGISLATION; AGRARIAN REFORM LAWS; COMPREHENSIVE AGRARIAN REFORM LAW (R.A. NO. 6657) AND TENANT EMANCIPATION DECREE (P.D. NO. 27), DISTINGUISHED.— Republic Act No. 6657 is broader in scope than Presidential Decree No. 27, for the former applies to all agricultural lands in which agricultural activities are conducted, while the latter requires that the covered agricultural land be tenanted and primarily devoted to rice or corn cultivation. x x x In addition, the tenurial instruments issued to agrarian reform beneficiaries differ under these laws. Ownership of the beneficiary under Presidential Decree No. 27 is evidenced by an EP while a certificate of land ownership award (CLOA) is issued under Republic Act No. 6657.

4. ID.; ID.; REPUBLIC ACT NO. 6657; REQUISITES BEFORE A LAND MAY BE PLACED UNDER THE COVERAGE THEREOF; NOT MET IN THE CASE AT BAR.— [B]efore land may be placed under the coverage of Republic Act No. 6657, two requisites must be met, namely: (1) that the land must be devoted to agricultural activity; and (2) that the land must not be classified as mineral, forest, residential, commercial or industrial land. Considering that the Dakila property has not been classified as mineral, forest, residential, commercial or industrial, the second requisite is satisfied. For the first requisite to be met, however, there must be a showing that agricultural activity is undertaken on the property. x x x Here, no evidence was submitted to show that any agricultural activity – like cultivation of the land, planting of crops, growing of fruit trees, raising of livestock, or poultry or fish, including the harvesting of such farm products, and other farm activities and practices – were being performed on the Dakila property in order to subject it to the coverage of Republic Act No. 6657. We take particular note that the previous tenants had themselves declared that they were voluntarily surrendering their tenancy rights because the land was not conducive to farming by reason of its elevation, among others. Also notable is the second *Whereas* Clause of Municipal Resolution No. 16-98, which mentioned that the Dakila property was not fit for agricultural use due to lack of sufficient irrigation and that it was more suitable for residential use x x x.

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5. ID.; ID.; PRESIDENTIAL DECREE NO. 27; REQUISITES BEFORE A LAND MAY BE PLACED UNDER THE COVERAGE THEREOF; NOT MET IN THE CASE AT BAR.— For land to be covered under Presidential Decree No. 27, it must be devoted to rice or corn crops, and there must be a system of share-crop or lease-tenancy obtaining therein. If either requisite is absent, the land must be excluded. x x x The first requirement, that the land be devoted to rice or corn cultivation, was not sufficiently established. In this regard, the OIC-Regional Director inaccurately based his holding on the report submitted by the Legal Services Division x x x. [W]e can only infer from the report that it was merely subdivided. The report did not mention whatsoever the agricultural activities performed in the Dakila property. Nor was there a finding that the Dakila property was devoted to either rice or corn cultivation as to justify its coverage under Presidential Decree No. 27. x x x [N]o such evidence was presented, nor was there any field investigation conducted to verify whether or not the landholding was primarily devoted to the cultivation of rice or corn. Accordingly, the Dakila property should be excluded from the OLT. x x x [T]he evidence to establish in the proceedings below that they or their predecessors had been tenants of the petitioner's predecessor-in-interest to make them the rightful beneficiaries of the Dakila property was severely wanting. x x x Here, the consent to establish a tenant-landlord relationship was manifestly absent. x x x There was also no showing that the respondents were engaged in any agricultural activities, or agreed with Santiago or the petitioner on the sharing of harvests. The OIC-Regional Director obviously disregarded the affidavit of Barangay Captain Feline M. Teodoro of Dakila, Malolos, Bulacan stating that the respondents were never the actual farmers on the Dakila property.

6. POLITICAL LAW; CONSTITUTIONAL LAW; DUE PROCESS; RIGHT OF PETITIONER THERETO DENIED ON ACCOUNT OF NON-COMPLIANCE WITH THE PROCEDURES SET BY REPUBLIC ACT NO. 6657 AND ITS RELEVANT RULES AND REGULATIONS.— Under Republic Act No. 6657 and DAR A.O. No. 12, Series of 1989, two notices should be sent to the landowner – the first, the notice of coverage; and the other, the notice of acquisition. The Court cannot consider and declare the proceedings conducted by the OIC-Regional Director as a substantial compliance with

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> the notice requirements. Compliance with such requirements, being necessary to render the implementation of the CARP valid, was mandatory. x x x The procedures provided by Section 16 of Republic Act No. 6657 and its relevant DAR administrative issuances are to ensure the compliance with the due process requirements of the law. The result of their non-compliance is to deprive the landowner of its constitutional right to due process.

APPEARANCES OF COUNSEL

Ret. Justice Cuevas Law Office for petitioner.
*Joseph Sagampud, Jr.*for respondents.

D E C I S I O N

BERSAMIN, *J.*:

Land on which no agricultural activity is being conducted is not subject to the coverage of either Presidential Decree No. 27 or Republic Act No. 6657 (*Comprehensive Agrarian Reform Law*).

The Case

The petitioner appeals the decision promulgated on July 27, 2011,[1] whereby the Court of Appeals (CA) reversed the decision issued by the Office of the President (OP) on March 1, 2010,[2] and reinstated the order of the OIC-Regional Director of the Department of Agrarian Reform in Regional Office III rendered on August 18, 2006.[3]

Antecedents

Subject of the controversy is a parcel of land located in Brgy. Dakila, Malolos, Bulacan (Dakila property) registered in the

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[1] *Rollo*, pp. 68-85; penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justice Francisco P. Acosta and Associate Justice Manuel M. Barrios concurring.

[2] *Id.* at 239-243.

[3] *Id.* at 157-161.

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name of Freddie Santiago under Transfer Certificate of Title (TCT) No. T-103698 of the Registry of Deeds of Bulacan with an area of 212,500 square meters. The Dakila property used to be tenanted by Susana Surio, Cipriano Surio, Alfonso Espiritu, Agustin Surio, Aurelio Surio, Pacifico Eugenio, Godofredo Alcoriza, Lorenza Angeles, Ramon Manalad, Toribio Hernandez, Emerciana Montealegre, Pedro Manalad, Celerino Ramos and Cecilia L. Martin,[4] but in August 1991, these tenants freely and voluntarily relinquished their tenancy rights in favor of Santiago through their respective *sinumpaang pahayag*[5] in exchange for some financial assistance and individual homelots titled and distributed in their names, as follows:[6]

TCT No.	Name of Tenant/Successor	Area (sq. m.)
T-73006	Susana Surio	186
T-73007	Cipriano Surio	150
T-73008	Alfonso Espiritu	300
T-73009	Agustin Surio	300
T-73010	Aurelio Surio	264
T-73011	Pacifico Eugenio	300
T-73012	Godofredo Alcoriza	300
T-73013	Lorenza Angeles	300
T-73014	Ramon Manalad	300
	Toribio M. Hernandez	300
	Emerciana Montealegre	300
	Pedro Manalad	300
T-73015	Celerino Ramos	300
T-73016	Cecilia L. Martin	300

[4] *Id*. at 16-18.

[5] *Id*. at 107-135.

[6] *Id*. at 18-19.

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T-73017	Pablo dela Cruz	300
T-73018	Aurelio dela Cruz	300
T-73019	Julita Leoncio	300
	Anicia L. de Guzman	
T-73020	Ramon Centeno	300
T-73021	Miguel Centeno	300
	TOTAL	4,500

On September 17, 1992, the petitioner purchased the remaining 208,050 square meters of the Dakila property from Santiago,[7] and later caused the transfer of the title to its name as well as subdivided the Dakila property into six lots,[8] to wit:

TCT No.	Area(sq. m.)
81618	50,000
81619	50,000
81620	50,000
81621	54,810
73022	2,401
73023	839
TOTAL	208,050

The petitioner then developed the property by dumping filling materials on the topsoil, and by erecting a perimeter fence and steel gate. It established its field office on the property.[9]

On March 4, 1998, the Sanggunian Bayan ng Malolos passed Municipal Resolution No. 16-98 reclassifying four of the six subdivided lots belonging to the petitioner, to wit:

MUNICIPAL RESOLUTION NO. 16-98

A RESOLUTION RE-CLASSIFYING AS RESIDENTIAL LOTS THE FOUR (4) PARCELS OF LAND SEPARATELY COVERED BY TCT

[7] *Id*. at. 19.

[8] *Id*. at 136, 138, 140, 142, 144 and 146.

[9] *Id*. at 20.

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NO. 81618, TCT NO. 81619, TCT NO.81620 AND TCT NO. 81621 CONTAINING AN AREA OF 50,000 SQ MTS, 50,000 SQ. MTS, 50,000 SQ M (*sic*) AND 54,810 SQ M (*sic*) RESPECTIVELY ALL LOCATED AT DAKILA, MALOLOS, BULACAN REGISTERED IN THE NAME OF THE HOLY TRINITY REALTY AND DEVELOPMENT CORPORATION

WHEREAS, Ms. Jennifer M. Romero, Auditor Representative of Holy Trinity Realty and Development Corporation in [her] letter to the Sangguniang Bayan made a request for re-classification of four parcel(s) of land registered in the name of Holy Trinity and Development Corporation under TCT NO. 81618, TCT NO. 81619, TCT NO.81620 AND TCT NO. 81621 with an area of 50,000 sq. m., 50,000 sq. m., 50,000 sq. m. AND 54,810 sq. m. respectively all located at Dakila, Malolos, Bulacan.

WHEREAS, after an ocular inspection of the subject lots and matured deliberation, the Sangguniang Bayan found merit in the request for the following reasons, thus:

1. The Properties are untenanted;

2. That they are not fitted (*sic*) for agricultural use for lack of sufficient irrigation;

3. There are improvements already introduce[d] on the property by its owner like construction of subdivision roads;

4. Lack of oppositor to the intend[ed] subdivision project on the properties by its owner;

5. That they are more suitable for residential use considering their location vi[s]-à-vi[s] with (*sic*) the residential lots in the area.

NOW THEREFORE, on motion of Hon. Romeo L. Maclang as seconded by all Sangguniang Bayan members present,

RESOLVED, as is hereby resolved to re-classify into residential properties four (4) parcels of land separately covered by TCT NO. 81618, TCT NO. 81619, TCT NO.81620 AND TCT NO. 81621 of the Registry of Deeds of Bulacan, containing an area of 50,000 sq. m. respectively, registered in ownership of Holy Trinity and Development Corporation located and adjacent to one another in Barangay Dakila of this Municipality pursuant to the power vested to this Sangguniang [sic] by the Local Government Code of the Philippines.

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RESOLVED further that the owner and/or developer of the said property shall provide adequate [illegible] to protect the adjacent lots and its owners from any inconvenience and prejudice caused by the development of the above mentioned property.

APPROVED.[10]

Consequently, the Municipal Planning and Development Office (MPDO) of Malolos, Bulacan issued a Certificate of Eligibility for Conversion (Certificate of Zoning Conformance),[11] as well as a Preliminary Approval and Locational Clearance in favor of the petitioner for its residential subdivision project on the Dakila property.[12]

On August 23, 1999, the petitioner purchased from Santiago another parcel of land with an area of 25,611 located in Barangay Sumapang Matanda, Malolos, Bulacan (Sumapang Matanda property) and covered by TCT No. T-103697 of the Registry of Deeds of Bulacan.[13]

In April 2006, a certain Silvino Manalad and the alleged heirs of Felix Surio wrote to the Provincial Agrarian Reform Officer (PARO) of Bulacan to request an investigation of the sale of the Dakila property.[14] This was followed by the letter request of Sumapang Matanda Barangay Agrarian Reform Council (BARC) Chairman Numeriano L. Enriquez to place the Dakila property within the coverage of Operation Land Transfer (OLT) pursuant to Presidential Decree No. 27, which was docketed as A-0302-0608-06, A.R. Case No. LSD-0324'06.[15]

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[10] *Id*. at 153-154.

[11] *Id*. at 155.

[12] *Id*. at 156.

[13] *Id*. at 17.

[14] *Id*. at 69.

[15] Entitled *Re: Letter-Request of Numeriano Enriquez for Distribution of Lands Covered Under OLT Which Were Allegedly Transferred Illegally In The Name of Holy Trinity Realty and Development Corporation, Located in Dakila, Malolos City, Bulacan.*

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Several days later, the DAR Provincial Office of Bulacan filed a petition to annul the sale of the Dakila property with the Provincial Agrarian Reform Adjudicator (PARAD) of Bulacan, docketed as DARAB Case No. R-03-02-2873'06.

Ruling of the DAR Regional Office

On August 18, 2006, the OIC-Regional Director in San Fernando, Pampanga issued an order granting the letter request of BARC Chairman Enriquez in A-0302-0608-06, A.R. Case No. LSD-0324'06,[16] *viz*:

> WHEREFORE, in the light of the foregoing premises and for the reason indicated therein, this Office resolves to give due course to this instant request. Accordingly, the MARO and PARO concerned are hereby DIRECTED to place within the ambit of PD 27/RA 6657 the following titles TCT Nos. T-81618, T-81619, T-81620, T-81621, T-81622 and T-73023, all situated at Sumapang Matanda, Malolos City, Bulacan, registered in the name of Holy Trinity Realty and Development Corporation for distribution to qualified farmer beneficiary (*sic*).
>
> Finally, the DAR reserves the right to cancel or withdraw this Order in case of misrepresentation of facts material to its issuance and for violation of pertinent agrarian laws including applicable implementing guidelines or rules and regulations.
>
> SO ORDERED.[17]

The OIC-Regional Director opined that the sale of the Dakila property was a prohibited transaction under Presidential Decree No. 27, Section 6 of Republic Act No. 6657[18] and DAR

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[16] *Rollo*, pp. 157-161.

[17] *Id*. at 161.

[18] Section 6. Retention Limits. — x x x x

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

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Administrative Order No. 1, Series of 1989; and that the petitioner was disqualified from acquiring land under Republic Act No. 6657 because it was a corporation.[19]

Aggrieved, the petitioner assailed the order through its Motion to Withdraw/Quash/Set Aside,[20] citing lack of jurisdiction and denial of due process. It argued that the letter request was in the nature of a collateral attack on its title.

Pending resolution of the Motion to Withdraw/Quash/Set Aside, the Register of Deeds issued emancipation patents (EPs) pursuant to the order of the OIC-Regional Director. The petitioner's titles were canceled and EPs were issued to the respondents as follows:[21]

TCT No.	Emancipation Patent No.	Beneficiary/ies	Area (sqm)
T-2007-EP[22]	00783329	Victorio dela Cruz	50,000
T-2008-EP[23]	00783330	Lorenzo Manalaysay	50,000
T-2009-EP[24]	00783331	Ricardo Marcelo, Jr.	50,000
T-2010-EP[25]	00783332	Leoncio de Guzman	54,810
T-2011-EP[26]	00783334	Gonzalo Caspe	2,401
T-2012-EP[27]	00783333		839

Almost two months after the EPs were issued, the OIC-Regional Director denied the petitioner's motion for reconsideration.[28]

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[19] *Rollo*, pp. 159-160.

[20] *Id*. at 162-175.

[21] *Id*. at 183-194.

[22] Transferred from TCT No. T-81618.

[23] Transferred from TCT No. T-81619.

[24] Transferred from TCT No. T-81620.

[25] Transferred from TCT No. T-81621.

[26] Transferred from TCT No. T-73022.

[27] Transferred from TCT No. T-73023.

[28] *Rollo*, pp. 201-203.

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Ruling of the DAR Secretary

The petitioner appealed to the DAR Secretary, submitting that: (1) the letter request for coverage under Presidential Decree No. 27 and the subsequent filing of the petition for annulment of sale in the DARAB constituted forum shopping; and (2) the EPs were prematurely issued.

On November 22, 2007, DAR Secretary Nasser C. Pangandaman issued an order denying the appeal,[29] and holding that forum shopping was not committed because the causes of action in the letter request and the action for cancellation of the deed of sale before the DARAB were distinct and separate; that the EPs were regularly issued; and that the resolution of the DARAB would not in any manner affect the validity of the EPs.

Ruling on the petitioner's motion for reconsideration, the DAR Secretary said that the Dakila property was not exempt from the coverage of Presidential Decree No. 27 and Republic Act No. 6657 because Municipal Resolution No. 16-98 did not change or reclassify but merely re-zoned the Dakila property.[30]

Ruling of the Office of the President

On March 1, 2010, the Office of the President (OP) reversed the ruling of DAR Secretary Pangandaman upon its finding that the Dakila property had ceased to be suitable for agriculture, and had been reclassified as residential land pursuant to Municipal Resolution No. 16-98, thus:[31]

We find merit in the appeal.

Under Section 3 (c) of RA 6657, agricultural lands refer to lands devoted to agriculture as conferred in the said law and not classified as industrial land. Agricultural lands are only those lands which are arable or suitable lands that do not include commercial, industrial and residential lands.

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[29] *Id*. at 204-210.

[30] *Id*. at 214-217.

[31] *Id*. at 239-243.

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In this case, the subject landholdings are not agricultural lands but rather residential lands. The lands are located in a residential area. Likewise, there are agricultural activities within or near the area. Even today, the areas in question continued (*sic*) to be developed as a residential community, albeit at a snail's pace. This can be readily gleaned from the fact that both the City Assessor of Malolos and the Provincial Assessor of Bulacan have considered these lands as residential for taxation purposes.

Based on the foregoing, it is clear that appellant's landholding cannot in any language be considered as "agricultural lands." These lots were intended for residential use. They ceased to be agricultural lands upon approval of Municipal Resolution No. 16-98. The authority of the municipality (now City) of Malolos to issue zoning classification is an exercise of its police power, not the power of eminent domain. Section 20, Chapter 2, Title I of RA 7160 specifically empowers municipal and/or city councils to adopt zoning and subdivision ordinances or regulations within its territorial jurisdiction. A zoning ordinance/resolution prescribes, defines, and apportions a given political subdivision into specific land uses as present and future projection of needs. The power of the local government to convert or reclassify agricultural lands to non-agricultural lands is not subject to the approval of the Department of Agrarian Reform.

It bears stressing that in his Decision dated April 30, 2002, as affirmed by the Department of Agrarian Reform Adjudication Board (DARAB) in its Resolution dated March 17, 2006, Bulacan Provincial Adjudicator Toribio Ilao, Jr., declared that the properties were not tenanted and/or agricultural and that the alleged farmers-occupants are mere squatters thereto. These decision and resolution were not appealed by the farmers-occupants and, as such, it became final and executory. By declaring, in its assailed Order of November 22, 2007, that the properties subject of the suit, were agricultural lands, the DAR Secretary thereby reversed the said DARAB rulings, issued more than a year before, and nullified Resolution No. 16-98 of the Municipal Council of Malolos, approved nine (9) years earlier, on March 4, 1998. Thus, the DAR Secretary acted with grave abuse of discretion amounting to excess or lack of jurisdiction.

IN VIEW OF THE FOREGOING, the appeal is hereby **GRANTED**. Accordingly, the November 22, 2007 Order and February 22, 2008

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Resolution of the Department of Agrarian Reform are hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.[32]

The respondents moved to reconsider, but the OP denied their motion for reconsideration. Hence, they appealed to the CA by petition for review.[33]

Ruling of the CA

In the now assailed decision promulgated on July 27, 2011,[34] the CA reversed and set aside the decision of the OP. It declared that prior to the effectivity of Republic Act No. 6657 on June 15, 1988 and even after the passage of Municipal Resolution No. 16-98 on March 4, 1998, the Dakila property was an agricultural land; that there was no valid reclassification because Section 20 of Republic Act No. 7160 (*The Local Government Code*) and Memorandum Circular No. 54 required an ordinance, not a resolution; and that findings of the DAR on the Dakila property being an agricultural land should be respected,[35] subject to the clarification to the effect that its determination was only limited to the issue of whether the Dakila property was an agricultural land covered by Republic Act No. 6657.

The petitioner sought reconsideration but its motion for that purpose was denied.[36]

Hence, this appeal by petition for review on *certiorari*.

Issues

The petitioner presents the following issues for our consideration:

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[32] *Id*. at 242-243.

[33] *Id*. at 244-264.

[34] *Supra*, note 1.

[35] *Rollo*, pp. 81-84.

[36] *Id*. at p. 87.

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I

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRONEOUSLY OMITTED TO RULE UPON, ALBEIT WITHOUT CITING ANY VALID REASONS, THE VARIOUS INTERRELATED ISSUES PROFFERED IN PETITIONER'S COMMENT RELATIVE TO DAR'S INCLUSION OF THE SUBJECT DAKILA PROPERTY UNDER THE COVERAGE OF THE AGRARIAN REFORM LAW, TO WIT: A.) RESPONDENT-GRANTEES OF EMANCIPATION PATENTS FROM DAR ARE NOT LEGITIMATE TENANTS OF THE DAKILA PROPERTY; B.) THE SALE AND TRANSFER OF TITLES IN THE NAME OF PETITIONER HAVE NOT HERETOFORE BEEN NULLIFIED EITHER BY THE DARAB CENTRAL OFFICE OR THE REGULAR COURTS; C.) THE BONAFIDE TENANTS OF THE DAKILA PROPERTY HAVE VALIDLY SURRENDERED THEIR TENANCY RIGHTS IN FAVOR OF PETITIONER'S PREDECESSOR-IN-INTEREST; D.) THE DAKILA PROPERTY WAS NO LONGER TENANTED AND, FURTHER, WAS NO LONGER SUITABLE TO AGRICULTURE, AT THE TIME OF ITS COVERAGE UNDER AGRARIAN REFORM, ITS ACTUAL USE BEING ALREADY RESIDENTIAL

II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS LIKEWISE ERRED IN FAILING TO RULE ON THE ILLEGALITY OF THE MANNER BY WHICH THE DAR CAUSED THE SUMMARY COVERAGE OF THE DAKILA PROPERTY UNDER THE CARP, ITS EXTRA-JUDICIAL CANCELLATION OF PETITIONER'S TITLES WITHOUT DUE PROCESS OF LAW, AND ITS PREMATURE ISSUANCE OF EMANCIPATION PATENTS IN FAVOR OF RESPONDENTS

III

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRONEOUSLY APPLIED THE PROVISIONS OF RA 6657 IN RESOLVING THE SUBJECT PETITION, EVEN THOUGH THE DAR PLACED THE SUBJECT DAKILA PROPERTY UNDER THE COVERAGE OF PRESIDENTIAL DECREE NO. 27.

IV.

WHETHER OR NOT HEREIN RESPONDENT'S PETITION FOR REVIEW *A QUO* OUGHT TO HAVE BEEN DISMISSED

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OUTRIGHT BY THE HONORABLE COURT OF APPEALS FOR FAILURE TO COMPLY WITH SECTION 4, RULE 7 OF THE 1997 REVISED RULES OF CIVIL PROCEDURE.[37]

The petitioner argues that the CA ignored issues vital to the complete determination of the parties' respective rights over the Dakila property.

Firstly, the CA should have ruled on the propriety of issuing the EPs. In view of the pending petition before the DARAB, the DAR should have withheld the issuance of the EPs. Even granting that a final decision had already been rendered by the DARAB, the issuance of the EPs remained premature inasmuch as the DAR had not yet commenced any court proceedings for the cancellation of the petitioner's title. Accordingly, the petitioner's title remained indefeasible and could not be disturbed by the collateral orders by the OIC-Regional Director and the DAR Secretary.

Secondly, the petitioner was deprived of due process because the requirements of notice and the conduct of a public hearing and a field investigation were not strictly complied with by the DAR pursuant to Republic Act No. 6657 and DAR Administrative Order No. 12, Series of 1998.

Thirdly, the CA erred in placing the Dakila property under the coverage of Republic Act No. 6657 when the order of the OIC-Regional Director applied the provisions of Presidential Decree No. 27. The two laws should be differentiated from each other; on one hand, Presidential Decree No. 27 required the beneficiary to be a tenant-farmer of an agricultural land devoted to rice or corn, while on the other Republic Act No. 6657 was relatively broader and covered all public and private agricultural lands regardless of the tenurial arrangement and the commodity produced.

Lastly, the CA should have dismissed the respondents' petition for review due to its defective certification, pointing to the

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[37] *Id*. at 28-29.

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verification having been executed by the respondents despite the letter request having been signed by BARC Chairman Enriquez; and assailing the verification for containing the statement that the allegations therein were based on their "knowledge and belief" instead of their "personal knowledge and authentic records" as required by the *Rules of Court*.

The respondents countered that: (1) the CA correctly set aside the issue of whether or not they were qualified beneficiaries, because that was not the issue raised in the letter request; (2) the CA could not have ruled on the validity of the sale of the Dakila property in light of the pending action in the DARAB; (3) it was within the jurisdiction of the DAR to determine whether or not the respondents were qualified beneficiaries; (4) the waivers by the tenants were illegal; and (5) the issuance of the EPs was a necessary consequence of placing the Dakila property under the coverage of Presidential Decree No. 27.

In view of the foregoing, the Court needs to consider and resolve the following:

1. Did the CA gravely err in limiting its decision to the issue of whether or not the Dakila property was subject to the coverage of Republic Act No. 6657?
2. Was the Dakila property agricultural land within the coverage of Republic Act No. 6657 or Presidential Decree No. 27?
3. Was the issuance of the EPs pursuant to the August 16, 2006 order of the DAR Regional Office proper?

Ruling

We reverse the CA, and reinstate the decision of the OP.

I.

Procedural Issue

We first resolve the issue of the supposedly defective verification.

The verification of a petition is intended to secure an assurance that the allegations contained in the petition have been made

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in good faith, are true and correct and not merely speculative.[38] This requirement affects the form of the pleading, and its non-compliance will not render the pleading defective. It is a formal, not a jurisdictional requisite.[39] The courts may order the correction of the pleading if the verification is lacking, and may even act on an unverified pleading if doing so will serve the ends of justice.[40]

Under the foregoing, the CA rightly allowed the petition for review of the respondents despite the statement that the allegations therein were based on their "knowledge and belief." We underscore that the defect was even lifted upon the voluntary submission by the respondents themselves of their corrected verification in order to comply with the *Rules of Court*.

We cannot also subscribe to the argument that the respondents were not appropriate parties to sign the verification. They were, considering that when the DAR issued the EPs, they became the real parties in interest in the proceedings, giving them the requisite personality to sign the verification. Moreover, there is no question that the party himself need not sign the verification, for it was enough that the party's representative, lawyer, or any person who personally knew the truth of the facts alleged in the pleadings could sign the verification.[41] In any event, the respondents, as the identified beneficiaries, had legal standing and interest to intervene to protect their rights or interests under

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[38] *Yujuico v. Atienza, Jr.*, G.R. No. 164282, October 12, 2005, 472 SCRA 463, 478; *Chua v. Torres*, G.R. No. 151900, August 30, 2005, 468 SCRA 358, 365; *Shipside Incorporated v. Court of Appeals*, G.R. No. 143377, February 20, 2001, 352 SCRA 334, 346.

[39] *Estares v. Court of Appeals*, G.R. No. 144755, June 8, 2005, 459 SCRA 604, 616; *Torres v. Specialized Packaging Development Corporation*, G.R. No. 149634, July 6, 2004, 433 SCRA 455, 465.

[40] *Bank of the Philippine Islands v. Court of Appeals*, G.R. No. 170625, October 17, 2008, 569 SCRA 510, 523; *Pfizer, Inc. v. Galan*, G.R. No. 143389, May 25, 2001, 358 SCRA 240, 247; *Hontiveros v. Regional Trial Court, Br. 25, Iloilo City*, G.R. No. 125465, June 29, 1999, 309 SCRA 340, 352.

[41] *Hutama-RSEA/Supermax Phils., J.V. v. KCD Builders Corporation*, G.R. No. 173181, March 3, 2010, 614 SCRA 153, 161-162; *Pajuyo v. Court of Appeals*, G.R. No. 146364, June 3, 2004, 430 SCRA 492, 509.

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Republic Act No. 6657. This is clear from Section 19 of Republic Act No. 9700,[42] which amended Republic Act No. 6657 by adding Section 50-A, to wit:

> Section 19. Section 50 of Republic Act No. 6657, as amended, is hereby further amended by adding Section 50-A to read as follows:
>
> Section 50-A. Exclusive Jurisdiction on Agrarian Dispute. – x x x
>
> In cases where regular courts or quasi-judicial bodies have competent jurisdiction, agrarian reform beneficiaries or identified beneficiaries and/or their associations shall have legal standing and interest to intervene concerning their individual or collective rights and/or interests under the CARP.
>
> x x x x x x x x x

II.
Courts can pass upon matters related to the issues raised by the parties

As a general rule, appellate courts are precluded from discussing and delving into issues that are not raised by the parties. The pertinent rule is Section 8, Rule 51 of the *Rules of Court*, to wit:

> Section 8. *Questions that may be decided*. – No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

In *Philippine National Bank v. Rabat*,[43] the Court explained how this rule operates, thus:

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[42] *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*.

[43] G.R. No. 134406, November 15, 2000, 344 SCRA 706.

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In his book, Mr. Justice Florenz D. Regalado commented on this section, thus:

1.Sec. 8, which is an amendment of the former Sec. 7 of this Rule, now includes some substantial changes in the rules on assignment of errors. The basic procedural rule is that only errors claimed and assigned by a party will be considered by the court, except errors affecting its jurisdiction over the subject matter. **To this exception has now been added errors affecting the validity of the judgment appealed from or the proceedings therein.**

Also, even if the error complained of by a party is not expressly stated in his assignment of errors but the same is closely related to or dependent on an assigned error and properly argued in his brief, such error may now be considered by the court. These changes are of jurisprudential origin.

2.The procedure in the Supreme Court being generally the same as that in the Court of Appeals, unless otherwise indicated (see Secs. 2 and 4, Rule 56), it has been held that the latter is clothed with ample authority to review matters, even if they are not assigned as errors on appeal, if it finds that their consideration is necessary in arriving at a just decision of the case. Also, an unassigned error closely related to an error properly assigned (*PCIB vs. CA, et al.*, L-34931, Mar. 18, 1988), or upon which the determination of the question raised by error properly assigned is dependent, will be considered by the appellate court notwithstanding the failure to assign it as error (*Ortigas, Jr. vs. Lufthansa German Airlines*, L-28773, June 30, 1975; *Soco vs. Militante, et al.*, G.R. No. 58961, June 28, 1983).

It may also be observed that under Sec. 8 of this Rule, the appellate court is authorized to consider a plain error, although it was not specifically assigned by the appellant (*Dilag vs. Heirs of Resurreccion*, 76 Phil. 649), otherwise it would be sacrificing substance for technicalities.[44] (Emphasis supplied)

Conformably with the foregoing, the CA is vested with sufficient authority and discretion to review matters, not assigned as errors on appeal, if it finds that consideration thereof is necessary in arriving at a complete and just resolution of the case or to serve the interests of justice or to avoid dispensing

[44] *Id*. at 715.

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piecemeal justice.[45] In fact, the CA is possessed with inherent authority to review unassigned errors that are closely related to an error properly raised, or upon which the determination of the error properly assigned is dependent, or where it finds that consideration thereof is necessary in arriving at a just decision of the case.[46]

It cannot be gainsaid that the validity of the EPs was closely intertwined with the issue of whether the Dakila property was covered by the agrarian reform laws. When the CA declared that the Dakila property came within the coverage of Republic Act No. 6657, the CA barely scraped the surface and left more questions unresolved rather than writing *finis* on the matter. To recall, this case originated from the letter of BARC Chairman Enriquez requesting that the Dakila property be placed under the OLT pursuant to Presidential Decree No. 27. But, as the petitioner correctly argues, the two laws, although similarly seeking to alleviate the plight of landless farmers or farmworkers from the bondage of tilling the soil, are distinct from each other. Republic Act No. 6657 is broader in scope than Presidential Decree No. 27, for the former applies to all agricultural lands in which agricultural activities are conducted, while the latter requires that the covered agricultural land be tenanted and primarily devoted to rice or corn cultivation.

In *Sigre v. Court of Appeals*,[47] the Court also stated:

> [T]he Court need not belabor the fact that R.A. 6657 or the CARP Law operates distinctly from P.D. 27. R.A. 6657 covers all public and private agricultural land including other lands of the public domain

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[45] *Carbonilla v. Board of Airlines Representatives*, G.R. No. 193247, September 14, 2011, 657 SCRA 775, 798; *St. Michael's Institute v. Santos*, G.R. No. 145280, December 4, 2001, 371 SCRA 383, 394; *Heirs of Ramon Durano, Sr. v. Uy*, G.R. No. 136456, October 24, 2000, 344 SCRA 238, 257.

[46] *Dumo v. Espinas*, G.R. No. 141962, January 25, 2006, 480 SCRA 53, 69; *Sesbreño v. Central Board of Assessment Appeals*, G.R. No. 106588, March 24, 1997, 270 SCRA 360, 370; *Servicewide Specialists, Inc. v. Court of Appeals*, G.R. No. 117728, June 26, 1996, 257 SCRA 643, 653.

[47] G.R. No. 109568, August 8, 2002, 387 SCRA 15.

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suitable for agriculture as provided for in Proclamation No. 131 and Executive Order No. 229; while, P.D. 27 covers rice and corn lands. On this score, E.O. 229, which provides for the mechanism of the Comprehensive Agrarian Reform Program, specifically states: "(P)residential Decree No. 27, as amended, shall continue to operate with respect to rice and corn lands, covered thereunder. x x x" It cannot be gainsaid, therefore, that R.A. 6657 did not repeal or supersede, in any way, P.D. 27. And whatever provisions of P.D. 27 that are not inconsistent with R.A. 6657 shall be suppletory to the latter, and all rights acquired by the tenant-farmer under P.D. 27 are retained even with the passage of R.A. 6657.[48]

In addition, the tenurial instruments issued to agrarian reform beneficiaries differ under these laws. Ownership of the beneficiary under Presidential Decree No. 27 is evidenced by an EP while a certificate of land ownership award (CLOA) is issued under Republic Act No. 6657. For this reason, the CA could not have simply set aside the issue of whether the EPs issued to the respondents were validly made by the DAR considering its declaration that the Dakila property was subject to Republic Act No. 6657.

III.

The Dakila property was not an agricultural land within the coverage of R.A. No. 6657 or P.D. No. 27

The CA declared that the Dakila property as an agricultural land; and that there was no valid reclassification under Municipal Resolution No. 16-98 because the law required an ordinance, not a resolution.

We agree in part with the CA.

Under Republic Act No. 7160, local government units, such as the Municipality of Malolos, Bulacan, are vested with the power to reclassify lands. However, Section 20, Chapter II, Title I of Republic Act No. 7160 ordains:

Section 20. Reclassification of Lands. – (a) A city or municipality may, **through an ordinance passed by the sanggunian after conducting**

[48] *Id*. at 29.

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public hearings for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture or (2) where the land shall have substantially greater economic value for residential, commercial, or industrial purposes, as determined by the sanggunian concerned: x x x. (Emphasis supplied)

Clearly, an ordinance is required in order to reclassify agricultural lands, and such may only be passed after the conduct of public hearings.

The petitioner claims the reclassification on the basis of Municipal Resolution No. 16-98. Given the foregoing clarifications, however, the resolution was ineffectual for that purpose. A resolution was a mere declaration of the sentiment or opinion of the lawmaking body on a specific matter that was temporary in nature, and differed from an ordinance in that the latter was a law by itself and possessed a general and permanent character.[49] We also note that the petitioner did not show if the requisite public hearings were conducted at all. In the absence of any valid and complete reclassification, therefore, the Dakila property remained under the category of an agricultural land.

Nonetheless, the Dakila property was not an agricultural land subject to the coverage of Republic Act No. 6657 or Presidential Decree No. 27.

Verily, the basic condition for land to be placed under the coverage of Republic Act No. 6657 is that it must either be primarily devoted to or be suitable for agriculture.[50] Perforce, land that is not devoted to agricultural activity is outside the coverage of Republic Act No. 6657.[51] An agricultural land,

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[49] *Antonio v. Geronimo*, G.R. No. 124779, November 29, 2005, 476 SCRA 340,352; *Municipality of Parañaque v. V.M. Realty Corporation*, G.R. No. 127820, July 20, 1998, 292 SCRA 678, 689.

[50] Section 4(d), Republic Act No. 6657.

[51] *Natalia Realty, Inc. v. Department of Agrarian Reform*, G.R. No. 103302, August 12, 1993, 225 SCRA 278, 283.

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according to Republic Act No. 6657, is one that is *devoted to agricultural activity* and not classified as mineral, forest, residential, commercial or industrial land.[52] *Agricultural activity* includes the "cultivation of the soil, planting of crops, growing of fruit trees, raising livestock, poultry or fish, including the harvesting of such farm products; and other farm activities and practices performed by a farmer in conjunction with such farming operations done by persons whether natural or juridical."[53]

Consequently, before land may be placed under the coverage of Republic Act No. 6657, two requisites must be met, namely: (1) that the land must be devoted to agricultural activity; and (2) that the land must not be classified as mineral, forest, residential, commercial or industrial land. Considering that the Dakila property has not been classified as mineral, forest, residential, commercial or industrial, the second requisite is satisfied. For the first requisite to be met, however, there must be a showing that agricultural activity is undertaken on the property.

It is not difficult to see why Republic Act No. 6657 requires agricultural activity in order to classify land as agricultural. The spirit of agrarian reform laws is not to distribute lands *per se*, but to enable the landless to own land for cultivation. This is why the basic qualification laid down for the intended beneficiary is to show the willingness, aptitude and ability to cultivate and make the land as productive as possible.[54] This requirement conforms with the policy direction set in the 1987 Constitution to the effect that agrarian reform laws shall be founded on the right of the landless farmers and farmworkers to own, directly or collectively, the lands they till.[55] In *Luz Farms v. Secretary of the Department of Agrarian Reform*,[56] we

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[52] Section 3(c), Republic Act No. 6657.

[53] Section 3(b), Republic Act No. 6657.

[54] Section 22, Republic Act No. 6657.

[55] Section 4, Article III, 1987 Constitution.

[56] G.R. No. 86889, December 4, 1990, 192 SCRA 51, 57.

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even said that the framers of the Constitution limited agricultural lands to the "arable and suitable agricultural lands."

Here, no evidence was submitted to show that any agricultural activity – like cultivation of the land, planting of crops, growing of fruit trees, raising of livestock, or poultry or fish, including the harvesting of such farm products, and other farm activities and practices – were being performed on the Dakila property in order to subject it to the coverage of Republic Act No. 6657. We take particular note that the previous tenants had themselves declared that they were voluntarily surrendering their tenancy rights because the land was not conducive to farming by reason of its elevation, among others.[57] Also notable is the second *Whereas* Clause of Municipal Resolution No. 16-98, which mentioned that the Dakila property was not fit for agricultural use due to lack of sufficient irrigation and that it was more suitable for residential use, thus:

> WHEREAS, after an ocular inspection of the subject lots and matured deliberation, the Sangguniang Bayan found merit in the request for the following reasons, thus:
>
> 1.The properties are untenanted;
>
> **2. That they are not fitted [sic] for agricultural use for lack of sufficient irrigation;**
>
> 3.There are improvements already introduce[d] on the property by its owner like construction of subdivision roads;
>
> 4.Lack of oppositor to the intend[ed] subdivision project on the properties by its owner;
>
> 5.That they are more suitable for residential use considering their location viz-a-viz (*sic*) with (*sic*) the residential lots in the area.[58] (Emphasis supplied)

The terse statement by the OIC-Regional Director that the Dakila property would still be subject to Republic Act No. 6657

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[57] *Rollo*, pp. 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, 135

[58] *Id*. at 153-154.

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should Presidential Decree No. 27 be inapplicable[59] did not meet the requirements under Republic Act No. 6657. Section 7 of Republic Act No. 6657 identified rice and corn lands subject to Presidential Decree No. 27 for priority distribution in the first phase and implementation of the CARP. Insofar as the interplay of these two laws was concerned, the Court has said that during the effectivity of the Republic Act No. 6657 and in the event of incomplete acquisition under Presidential Decree No. 27, the former should apply, with the provisions of the latter and Executive Order No. 228[60] having only suppletory effect.[61]

Even if we supplemented the provisions of Presidential Decree No. 27, the outcome is still the same, because the Dakila property was still not within the scope of the law. For land to be covered under Presidential Decree No. 27, it must be devoted to rice or corn crops, and there must be a system of share-crop or lease-tenancy obtaining therein. If either requisite is absent, the land must be excluded. Hence, exemption from coverage followed when the land was not devoted to rice or corn even if it was tenanted; or the land was untenanted even though it was devoted to rice or corn.[62] Based on these conditions, the DAR Regional Office erred in subjecting the Dakila property under the OLT.

The first requirement, that the land be devoted to rice or corn cultivation, was not sufficiently established. In this regard, the OIC-Regional Director inaccurately based his holding on

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[59] *Id.* at 159.

[60] *Declaring Full Land Ownership To Qualified Farmer Beneficiaries Covered By Presidential Decree No. 27; Determining The Value of Remaining Unvalued Rice And Corn Lands Subject to P.D. No. 27; And Providing For The Manner Of Payment By The Farmer Beneficiary And Mode Of Compensation To The Landowner*"

[61] *Land Bank of the Philippines v. Dumlao*, G.R. No. 167809, November 27, 2008, 572 SCRA 108, 121; *Land Bank of the Philippines v. Natividad*, G.R. No. 127198, May 16, 2005, 458 SCRA 441, 452; *Paris v. Alfeche*, G.R. No. 139083, August 30, 2001, 364 SCRA 110, 122.

[62] *Daez v. Court of Appeals*, G.R. No. 133507, February 17, 2000, 325 SCRA 856, 862.

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the report submitted by the Legal Services Division that—

> [P]ortion of the property embraced under **TCT No. 103697** with an area of **2.5611 hectares** more or less, was placed under PD [No.] 27 and subsequently an approved survey plan (Psd-03-020270) has been prepared which was then the basis of the issuance of titles in favor of **Felix Surio** and Silvino Manalad under **EP Nos. 345262 and 342561**. On the other hand, the land subject of this controversy was, likewise, subdivided and now covered by an approved plan ASP No. Psd-031410-066532.[63]

What can be gathered from the report of the Legal Services Division was that the land owned by the petitioner and covered by Presidential Decree No. 27 was the Sumapang Matanda property under TCT No. 103697. As to the Dakila property, we can only infer from the report that it was merely subdivided. The report did not mention whatsoever the agricultural activities performed in the Dakila property. Nor was there a finding that the Dakila property was devoted to either rice or corn cultivation as to justify its coverage under Presidential Decree No. 27. Such a finding was necessary, for the Court has observed in *Solmayor v. Arroyo*:[64]

> Although this Court will not disregard the evidence presented by petitioners that the land is devoted to rice and corn crops in 1993, when the ocular inspection by the DAR personnel was conducted, it must be noted that around the time of the passage of Presidential Decree No. 27 up to 1978, when the subject property was placed under the coverage of Operation Land Transfer, the available evidence issued and certified by the different government agencies, closer in time to the mentioned time frame will show that respondent's property has, indeed, been classified as within the residential and commercial zones of Davao City. It cannot escape the notice of this Court that more than a decade before the issuance of the said ocular investigation report stating that the land is devoted to agricultural production, government agencies equipped with the technical expertise to determine the proper classification of the subject land have already

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[63] *Rollo*, p. 158.

[64] G.R. No. 153817, March 31, 2006, 486 SCRA 326.

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determined that the land is part of the residential and commercial zones of Davao City making it suitable for other urban use. Therefore, it is only reasonable to conclude, based on the certification of various executive agencies issued when this controversy arose, that at the time of the passage of Presidential Decree No. 27, respondent's property was not agricultural.[65]

For land to come within the coverage of the OLT, indeed, there must be a showing that it is devoted to the cultivation of rice or corn, and there must be a system of share-crop or lease tenancy obtaining on October 21, 1972, the time when Presidential Decree No. 27 took effect.[66] Unfortunately, no such evidence was presented, nor was there any field investigation conducted to verify whether or not the landholding was primarily devoted to the cultivation of rice or corn. Accordingly, the Dakila property should be excluded from the OLT.

The DAR Secretary affirmed the validity of the EPs in favor of the respondents only "*pursuant to the Order of the Regional Director*."[67] We note, however, that the evidence to establish in the proceedings below that they or their predecessors had been tenants of the petitioner's predecessor-in-interest to make them the rightful beneficiaries of the Dakila property was severely wanting. For tenancy to exist, there must be proof that: (1) the parties are the landholder and the tenant; (2) the subject is agricultural land; (3) there is consent; (4) the purpose is agricultural production; (5) there is consideration;[68] and (6) there is a sharing of the harvests. All these requisites are necessary to create a tenancy relationship, and the absence of one or more of them will not make the alleged tenant a *de facto* tenant.[69]

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[65] *Id*. at 346.

[66] *Aniano v. Asturias Chemical Industries, Inc.*, G.R. No.160420, July 28, 2005, 464 SCRA 526, 539.

[67] *Rollo*, p. 209.

[68] *Ludo & Luym Development Corporation v. Barreto*, G.R. No. 147266, September 30, 2005, 471 SCRA 391, 403-404.

[69] *Heirs of Rafael Magpily v. De Jesus*, G.R. No. 167748, November 8, 2005, 474 SCRA 366, 374.

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Unless a person has established his status as a *de jure* tenant, he is not entitled to security of tenure; nor is he covered by the land reform program of the Government under the existing tenancy laws.[70] Here, the consent to establish a tenant-landlord relationship was manifestly absent. In view of the petitioner's repeated denial of the tenancy, the respondents ought then to establish the tenancy relationship, but did not do so. Tenancy could not be presumed, but must be established by evidence; its mere allegation is neither evidence nor equivalent to proof of its existence.[71]

There was also no showing that the respondents were engaged in any agricultural activities, or agreed with Santiago or the petitioner on the sharing of harvests. The OIC-Regional Director obviously disregarded the affidavit of Barangay Captain Felino M. Teodoro of Dakila, Malolos, Bulacan stating that the respondents were never the actual farmers on the Dakila property.[72]

IV.
The petitioner was deprived of due process

The petitioner posits that it was denied due process by the failure of the OIC-Regional Director to see to the compliance with the procedures outlined by Republic Act No. 6657 and Presidential Decree No. 27. It claims that the OIC-Regional Director resorted to "procedural shortcuts" and irregularities[73] in issuing the EPs to the respondents.

We agree with the petitioner's position.

In *Reyes v. Barrios*,[74] we identified the procedural requirements that must be followed prior to the issuance of an EP, *viz*:

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[70] *The Heirs of Jose Juanite v. Court of Appeals*, G.R. No. 138016, January 30, 2002, 375 SCRA 273, 276-277.

[71] *Dalwampo v. Quinocol Farmers, Farm Workers and Settlers' Association*, G.R. No. 160614, April 25, 2006, 488 SCRA 208, 219.

[72] *Rollo*, p. 212.

[73] *Rollo*, p. 43.

[74] G.R. No. 172841, December 15, 2010, 638 SCRA 541.

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The Primer on Agrarian Reform enumerates the steps in transferring the land to the tenant-tiller, thus:

a. First step: the identification of tenants, landowners, and the land covered by OLT.

b. Second step: land survey and sketching of the actual cultivation of the tenant to determine parcel size, boundaries, and possible land use;

c. Third step: the issuance of the Certificate of Land Transfer (CLT). To ensure accuracy and safeguard against falsification, these certificates are processed at the National Computer Center (NCC) at Camp Aguinaldo;

d. Fourth step: valuation of the land covered for amortization computation;

e. Fifth step: amortization payments of tenant-tillers over fifteen (15) year period; and

f. Sixth step: the issuance of the Emancipation Patent.

Thus, there are several steps to be undertaken before an Emancipation Patent can be issued. x x x.

x x x x x x x x x

Furthermore, there are several supporting documents which a tenant-farmer must submit before he can receive the Emancipation Patent, such as:

a. Application for issuance of Emancipation Patent;

b. Applicant's (owner's) copy of Certificate of Land Transfer.

c. Certification of the landowner and the Land Bank of the Philippines that the applicant has tendered full payment of the parcel of land as described in the application and as actually tilled by him;

d. Certification by the President of the Samahang Nayon or by the head of farmers' cooperative duly confirmed by the municipal district officer (MDO) of the Ministry of Local Government and Community Development (MLGCD) that the applicant is a full-fledged member of a duly registered farmers' cooperative or a certification to these effect;

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e. Copy of the technical (graphical) description of the land parcel applied for prepared by the Bureau of Land Sketching Team (BLST) and approved by the regional director of the Bureau of Lands;

f. Clearance from the MAR field team (MARFT) or the MAR District Office (MARDO) legal officer or trial attorney; or in their absence, a clearance by the MARFT leader to the effect that the land parcel applied for is not subject of adverse claim, duly confirmed by the legal officer or trial attorney of the MAR Regional Office or, in their absence, by the regional director;

g. Xerox copy of Official Receipts or certification by the municipal treasurer showing that the applicant has fully paid or has effected up-to-date payment of the realty taxes due on the land parcel applied for; and

h. Certification by the MARFT leader whether applicant has acquired farm machineries from the MAR and/or from other government agencies.

Majority of these supporting documents are lacking in this case. Hence, it was improper for the DARAB to order the issuance of the Emancipation Patent in favor of respondent without the required supporting documents and without following the requisite procedure before an Emancipation Patent may be validly issued.[75]

Furthermore, Section 16 of Republic Act No. 6657 outlines the procedure in acquiring private lands subject to its coverage, *viz*:

Section 16. *Procedure for Acquisition of Private Lands*. — For purposes of acquisition of private lands, the following procedures shall be followed:

(a) After having identified the land, the landowners and the beneficiaries, the DAR shall send its notice to acquire the land to the owners thereof, by personal delivery or registered mail, and post the same in a conspicuous place in the municipal building and barangay hall of the place where the property is located. Said notice shall contain the offer of the DAR to pay a corresponding value in accordance with the valuation set forth in Sections 17, 18 and other pertinent provisions hereof.

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[75] *Id*. at 553-555.

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(b) Within thirty (30) days from the date of receipt of written notice by personal delivery or registered mail, the landowners, his administrator or representative shall inform the DAR of his acceptance or rejection of the former.

(c) If the landowner accepts the offer of the DAR, the Land Bank of the Philippines shall pay the landowner the purchase price of the land within thirty (30) days after he executes and delivers a deed of transfer in favor of the Government and surrenders the Certificate of Title and other muniments of title.

(d) In case of rejection or failure to reply, the DAR shall conduct summary administrative proceedings to determine the compensation for the land by requiring the landowner, the LBP and other interested parties to submit evidence as to the just compensation for the land, within fifteen (15) days from the receipt of notice. After the expiration of the above period, the matter is deemed submitted for decision. The DAR shall decide the case within thirty (30) days after it is submitted for decision.

(e) Upon receipt by the landowner of the corresponding payment or in case of rejection or no response from the landowner, upon the deposit with an accessible bank designated by the DAR of the compensation in cash or in LBP bonds in accordance with this Act, the DAR shall take immediate possession of the land and shall request the proper Register of Deeds to issue a Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines. The DAR shall thereafter proceed with the redistribution of the land to the qualified beneficiaries.

(f) Any party who disagrees with the decision may bring the matter to the court of proper jurisdiction for final determination of just compensation.

Under Republic Act No. 6657 and DAR A.O. No. 12, Series of 1989, two notices should be sent to the landowner — the first, the notice of coverage; and the other, the notice of acquisition.

The Court cannot consider and declare the proceedings conducted by the OIC-Regional Director as a substantial compliance with the notice requirements. Compliance with such requirements, being necessary to render the implementation of

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the CARP valid, was mandatory. As the Court observed in *Roxas & Co., Inc. v. Court of Appeals*:[76]

For a valid implementation of the CAR Program, two notices are required: (1) ***the Notice of Coverage and letter of invitation*** **to a preliminary conference sent to the landowner, the representatives of the BARC, LBP, farmer beneficiaries and other interested parties pursuant to DAR A.O. No. 12, Series of 1989; and (2)** ***the Notice of Acquisition*** **sent to the landowner under Section 16 of the CARL.**

The importance of the first notice, *i.e.*, the Notice of Coverage and the letter of invitation to the conference, and its actual conduct cannot be understated. They are steps designed to comply with the requirements of administrative due process. The implementation of the CARL is an exercise of the State's police power and the power of eminent domain. To the extent that the CARL prescribes retention limits to the landowners, there is an exercise of police power for the regulation of private property in accordance with the Constitution. But where, to carry out such regulation, the owners are deprived of lands they own in excess of the maximum area allowed, there is also a taking under the power of eminent domain. The taking contemplated is not a mere limitation of the use of the land. What is required is the surrender of the title to and physical possession of the said excess and all beneficial rights accruing to the owner in favor of the farmer beneficiary. The Bill of Rights provides that "[n]o person shall be deprived of life, liberty or property without due process of law." The CARL was not intended to take away property without due process of law. The exercise of the power of eminent domain requires that due process be observed in the taking of private property.

x x x x x x x x x

Clearly then, the notice requirements under the CARL are not confined to the Notice of Acquisition set forth in Section 16 of the law. They also include the Notice of Coverage first laid down in DAR A. O. No. 12, Series of 1989 and subsequently amended in DAR A. O. No. 9, Series of 1990 and DAR A. O. No. 1, Series of 1993. This Notice of Coverage does not merely notify the landowner that his property shall be placed under CARP and that he is entitled to exercise his retention right; it also notifies him, pursuant to DAR A. O. No.

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[76] G.R. No. 127876, December 17, 1999, 321 SCRA 106.

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9, Series of 1990, that a public hearing shall be conducted where he and representatives of the concerned sectors of society may attend to discuss the results of the field investigation, the land valuation and other pertinent matters. Under DAR A. O. No. 1, Series of 1993, the Notice of Coverage also informs the landowner that a field investigation of his landholding shall be conducted where he and the other representatives may be present.[77] (Emphasis supplied)

The procedures provided by Section 16 of Republic Act No. 6657 and its relevant DAR administrative issuances are to ensure the compliance with the due process requirements of the law. The result of their non-compliance is to deprive the landowner of its constitutional right to due process.

The Court has carefully explained in *Roxas & Co., Inc. v. Court of Appeals* that the taking under the CARL is an exercise of police power as well as of eminent domain. The taking of the landholding by the State effectively results in the surrender by the landowner of its title and physical possession to the beneficiaries. Hence, compensation should be given to the landowner prior to the taking. This is the clear-cut directive of Section 16(e) of Republic Act No. 6657 which mandates the DAR to take immediate possession of the land only after full payment and to thereafter request the Register of Deeds to transfer title in the name of the Republic of the Philippines, and later on to the intended beneficiaries.

However, there was no evidence of payment prior to the cancellation of the petitioner's TCTs submitted here. The requirement of prior payment was found in Republic Act No. 6657 and Presidential Decree No. 27, under which full payment by the intended beneficiary was a condition prior to the award of an EP. We have explicitly pronounced in *Coruña v. Cinamin*[78] that the emancipation of tenants does not come free. The transfer of lands under Presidential Decree No. 27 remained subject to the terms and conditions provided in said law. In *Paris v. Alfeche*,[79] we said:

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[77] *Id*. at 133-142.

[78] G.R. No. 154286, February 28, 2006, 483 SCRA 507, 519-520.

[79] G.R. No. 139083, August 30, 2001, 364 SCRA 110.

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x x x. Section 2 of PD 266 states:

"After the tenant-farmer shall have fully complied with the requirements for a grant of title under Presidential Decree No. 27, an Emancipation Patent and/or Grant shall be issued by the Department of Agrarian Reform on the basis of a duly approved survey plan."

On the other hand, paragraphs 8 and 9 of PD 27 reads as follows:

"For the purpose of determining the cost of the land to be transferred to the tenant-farmer pursuant to this Decree, the value of the land shall be equivalent to two and one-half (2 ½) times the average harvest of three normal crop years immediately preceding the promulgation of this Decree;

"The total cost of the land, including interest at the rate of six (6) per centum per annum, shall be paid by the tenant in fifteen (15) years of fifteen (15) equal annual amortizations[.]"

Although, under the law, tenant farmers are already deemed owners of the land they till, they are still required to pay the cost of the land, including interest, within fifteen years before the title is transferred to them.[80] (Emphasis supplied)

The unquestioned non-compliance with the procedures set by Republic Act No. 6657 and its relevant rules and regulations further denied to the petitioner the exercise of its right of retention.[81] In doing so, the OIC-Regional Director disregarded this constitutionally guaranteed right. We cannot understate the value of the right of retention as the means to mitigate the effects of compulsory land acquisition by balancing the rights of the landowner and the tenant and by implementing the doctrine that social justice is not meant to perpetrate an injustice against the landowner.[82]

We also consider the manner by which the Dakila property was apportioned to the respondents highly suspect. It appears from the face of the EPs that the individual lots were allocated

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[80] *Id*. at 120-121.

[81] Section 6, Republic Act No. 6657.

[82] *Danan v. Court of Appeals*, G.R. No. 132759, October 25, 2005, 474 SCRA 113, 128.

based on how the landholding was subdivided by the petitioner. Moreover, all the respondents were awarded lots exceeding three hectares in violation of Section 23 of Republic Act No. 6657, which provides that "[n]o qualified beneficiary may own more than three (3) hectares of agricultural land."

In fine, the order of the OIC-Regional Director was patently null and void. The denial of due process to the petitioner sufficed to cast the impress of nullity on the official act thereby taken. A decision rendered without due process is void *ab initio* and may be attacked directly or collaterally.[83] All the resulting acts were also null and void. Consequently, the EPs awarded to the respondents should be nullified.

WHEREFORE, the Court **GRANTS** the petition for review on *certiorari*; **REVERSES** and **SETS ASIDE** the decision promulgated on July 27, 2011 by the Court of Appeals; **REINSTATES** the assailed decision of the Office of the President issued on March 1, 2010; **DIRECTS** the cancellation of Emancipation Patents No. 00783329, No. 00783330, No. 0078331, No. 0078332, No. 0078333, and No. 0078334 issued to the respondents for being **NULL** and **VOID**; and **ORDERS** the respondents to pay the costs of suit.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Perez, and *Perlas-Bernabe, JJ.,* concur.

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[83] *People v. Duca*, G.R. No. 171175, October 9, 2009, 603 SCRA 159,169; *Rubio, Jr. v. Paras*, G.R. No. 156047, April 12, 2005, 455 SCRA 697, 712; *Uy v. Court of Appeals*, G.R. No. 109557, November 29, 2000, 346 SCRA 246, 254-255.