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SECOND DIVISION

[G.R. No. 174830. July 31, 2009]

ISABELITA *vda. de* DAYAO and HEIRS OF VICENTE DAYAO, *petitioners, vs.* **HEIRS OF GAVINO ROBLES, namely PLACIDA *vda. de* ROBLES, TEODORA ROBLES MENDOZA, CRISPINA ROBLES-ABAGAT, PAVIA ROBLES *vda. de* ADRIANO, TEOFILA ROBLES VILLAFLORES and REGINO ROBLES,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; APPEALS; FACTUAL FINDINGS OF ADMINISTRATIVE AGENCIES CHARGED WITH A SPECIFIC FIELD OF EXPERTISE ARE GENERALLY AFFORDED GREAT WEIGHT AND RESPECT BY THE COURTS.—** At the onset, factual findings of administrative agencies charged with a specific field of expertise are afforded great weight and respect by the courts, and are generally binding and final so long as they are supported by substantial evidence found in the records of the case. However, when these administrative bodies base their conclusions on surmises, speculations or conjectures or when they disregard or grossly misappreciate the evidence presented, we are permitted to set aside their findings and make our own assessment of the submitted evidence.

2. **ID.; APPEAL UNDER RULE 45; A PETITION FOR REVIEW UNDER RULE 45 IS LIMITED ONLY TO QUESTIONS OF LAW.—** Settled is the rule that factual questions are not the proper subject of an appeal by *certiorari*, as a petition for review under Rule 45 is limited only to questions of law. Moreover, it is settled doctrine that the "errors" which may be reviewed by this Court in a petition for *certiorari* are those of the Court of Appeals, and not directly those of the trial court or the quasi-judicial agency, tribunal, or officer which rendered the decision in the first instance.

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3. ID.; ID.; ID.; EXCEPTIONS.— When supported by substantial evidence, the findings of fact of the Court of Appeals are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions: (1) When the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of facts are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) When the findings are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) When the findings of fact of the Court of Appeal are premised on the supposed absence of evidence and contradicted by the evidence on record.

4. ID.; ID.; ID.; ID.; CASE AT BAR.— We find that this case falls under the exceptions, since the findings of fact of the DAR are contrary to that of the Court of Appeals warranting review by this Court.

APPEARANCES OF COUNSEL

Arni R. Topico for petitioners.
Jaime G. Mena for respondents.

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D E C I S I O N

QUISUMBING, *J.*:

This is a petition for review on *certiorari* seeking the reversal of the Decision[1] dated January 26, 2006 and the Resolution[2] dated September 22, 2006 of the Court of Appeals in CA-G.R. SP No. 81637. The Court of Appeals had reversed the Decision[3] dated June 30, 2003 of the Office of the President which earlier affirmed the Order[4] dated May 19, 1997 of then Department of Agrarian Reform (DAR) Secretary Ernesto D. Garilao, upholding the grant of the application for retention of the Heirs of Vicente O. Dayao and his sister Isabelita O. Dayao.

The pertinent facts, culled from the records, are as follows:

Anacleto Dayao was the owner of parcels of land located in Paombong, Hagonoy and Malolos, in the Province of Bulacan, and in Minalin, Province of Pampanga. He died on July 24, 1934, leaving behind his spouse, Trinidad Ople Dayao and his two children, Vicente and Isabelita.[5]

On January 31, 1976, Vicente filed before the DAR an application for retention of several parcels of land. In his Small Landowner's Undertaking, Application for Retention and Affidavit,[6] Vicente stated his desire to retain not more than 7 hectares of his rice and/or corn lands pursuant to Presidential

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[1] *Rollo*, pp. 38-62. Penned by Associate Justice Arturo D. Brion (now a member of this Court), with Associate Justices Bienvenido L. Reyes and Mariflor P. Punzalan Castillo concurring.

[2] *Id.* at 63-68. Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Bienvenido L. Reyes and Mariano C. Del Castillo concurring.

[3] *Id.* at 109-110.

[4] *Id.* at 77-83.

[5] *Id.* at 39.

[6] CA *rollo*, pp. 27-28.

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Decree No. 27,[7] composed of the following tenanted rice and/or corn lands:

IV. TENANTED RICE AND/OR CORN LANDS APPLIED FOR RETENTION			
OCT/TCT/TD No.	NAME OF TENANT-FARMER	LOCATION OF FARMHOLDINGS	AREA (in hectares)
TCT No.18548	Juan Alcoriza, Policarpio Alcoriza & Victorino Teodoro	Dakila, Malolos, Bulacan	3.5001
CT No. 38	Perlito Santos	Kapitangan, Paombong, [Bulacan]	1.1000
TD No. 2762	Jose Santiago	San Sebastian, [Hagonoy], [Bulacan]	.4252
TD No. 2761	Jose Santiago	San Sebastian, Hagonoy, [Bulacan]	.9000
TD No. 2529	Gavino Robles	Sta. Elena, Hagonoy, [Bulacan]	.8425[8]

Twenty years later or on October 16, 1996 Director Eugenio B. Bernardo of DAR Region III, San Fernando, Pampanga granted Vicente's application for retention.[9] By that time, Vicente had already died and was survived by his heirs who substituted for him in the action.[10]

The DAR Order granting Vicente's application for retention states:

WHEREFORE, in view of the foregoing, ORDER is hereby issued:

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[7] DECREEING THE EMANCIPATION OF TENANTS FROM THE BONDAGE OF THE SOIL, TRANSFERRING TO THEM THE OWNERSHIP OF THE LAND THEY TILL AND PROVIDING THE INSTRUMENTS AND MECHANISM THEREFOR, done on October 21, 1972.

[8] CA *rollo*, p. 28.

[9] *Rollo*, pp. 72-74.

[10] *Id.* at 41-42.

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1. GRANTING the Application for retention filed by the Heirs of Vicente O. Dayao, namely: Basilia D. Tiongson, Delfin O. Dayao, Mario O. Dayao, and Teresa D. Contreras, with respect to their father's share more specifically described as:

TD No.	LOCATION	AREA
6341	Dakila, Malolos, Bulacan	3.5001 hectares
2529	San Pablo, Hagonoy, Bulacan	1.2829 hectares
661	Iba, Hagonoy, Bulacan	.3828 hectares
	TOTAL:	5.1[65]8 hectares

which shall be divided among the aforementioned Heirs to the extent of their legal shares;

2. GRANTING the retention right of Isabelita O. Dayao with respect to her own share, more specifically described as:

TD No.	LOCATION	AREA
4389	Kapitangan, Paombong, Bulacan	1.0923 hectares
8482	Sta. Elena, Hagonoy, Bulacan	.8925 hectares
7353	San Sebastian, Hagonoy, Bulacan	.9256 hectares
7374	San Sebastian, Hagonoy, Bulacan	.4752 hectares
662	Iba, Hagonoy, Bulacan	1.2410 hectares
	TOTAL:	4.6266 hectares

3. CANCELLING the CLTs issued to the tenants in the retained area, and in lieu thereof, directing the MARO concerned to assist the tenants in the execution of leasehold contracts with the landowners over their respective tillages; and

4. ORDERING the applicants to accordingly respect the security of tenure of their tenants/lessees, and to leave them in their peaceful cultivation of the land.

SO ORDERED.[11]

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[11] *Id.* at 73-74.

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Gavino Robles, one of the tenant-farmers of the parcels of land which Vicente had applied for, appealed the order granting Vicente's application for retention.

On May 19, 1997, then DAR Secretary Ernesto D. Garilao issued an Order denying Gavino's appeal and affirming the order of the DAR Region III Regional Director, as follows:

> WHEREFORE, [i]n [v]iew of [a]ll the [a]bove, Order is hereby issued denying the instant appeal for utter lack of merit and affirming the Order of DARRO, Region III dated 16 October 1996. The MARO of Hagonoy, Bulacan is hereby ordered to assist herein movant-appellant to execute a leasehold contract with the owner of the land at Sta. Elena, Hagonoy, Bulacan upon sufficient proof from movant-appellant Gavino Robles that he is actually tenanting therein. Likewise, the PARO of Bulacan is hereby ordered to initiate with the DARAB for the cancellation of any registered CLT or EP generated or issued in favor of movant-appellant Gavino Robles over that property at San Pablo, Hagonoy, Bulacan. However, any CLT or EP which is generated but not yet registered in the name of Gavino Robles is hereby ordered cancelled.
>
> SO ORDERED.[12]

Gavino filed a motion for reconsideration of the May 19, 1997 Order, but former DAR Secretary Horacio R. Morales denied the same. Gavino Robles then appealed to the Office of the President which, on June 30, 2003, issued a Decision denying his appeal, the dispositive portion of which states as follows:

> WHEREFORE, premises considered, judgment appealed from is hereby **AFFIRMED** *in toto*.
>
> SO ORDERED.[13]

Gavino subsequently filed a petition for review before the Court of Appeals.

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[12] *Id.* at 83.

[13] *Id.* at 110.

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On January 26, 2006, the Court of Appeals issued a decision reversing the orders of the DAR and the Office of the President. The Court of Appeals ruled that Vicente's application for retention was insufficient, incomplete and lacking forthrightness. Hence, the DAR had no basis to grant Vicente's application for retention. The Court of Appeals also held that contrary to the finding of the DAR, Vicente's sister, Isabelita, never applied for retention and hence, the DAR had no jurisdiction to grant her any retention. The dispositive portion of the decision states:

> WHEREFORE, premises considered, we hereby **GRANT** the petition for review and accordingly **REVERSE** and **SET ASIDE** the Order dated June 30, 2003 of the Office of the President. Vicente Dayao's application for retention is **DENIED** for lack of merit.
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> SO ORDERED.[14]

Petitioners herein Isabelita Dayao and the Heirs of Vicente Dayao filed a motion for reconsideration before the Court of Appeals but it was denied in a Resolution dated September 22, 2006.

Hence, the instant petition under Rule 45 of the Rules of Court.

Petitioners raise the following issue for our resolution:

> THE HONORABLE COURT OF APPEALS ERRED WHEN IT FAILED TO APPLY THE PROVISIONS OF PD 27 AND RELATED LAWS ON RETENTION RIGHTS OF LANDOWNERS, VICENTE DAYAO AND ISABELITA DAYAO, THEREBY DENYING THE PETITIONERS OF THEIR GUARANTEED RIGHTS UNDER THE LAW.[15]

The sole issue is: Did the Court of Appeals err when it reversed the orders of the DAR and the Office of the President granting petitioners' application for retention?

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[14] *Id.* at 61-62.

[15] *Id.* at 354.

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At the onset, factual findings of administrative agencies charged with a specific field of expertise are afforded great weight and respect by the courts, and are generally binding and final so long as they are supported by substantial evidence found in the records of the case. However, when these administrative bodies base their conclusions on surmises, speculations or conjectures or when they disregard or grossly misappreciate the evidence presented, we are permitted to set aside their findings and make our own assessment of the submitted evidence.

Settled is the rule that factual questions are not the proper subject of an appeal by *certiorari*, as a petition for review under Rule 45 is limited only to questions of law. Moreover, it is settled doctrine that the "errors" which may be reviewed by this Court in a petition for *certiorari* are those of the Court of Appeals, and not directly those of the trial court or the quasi-judicial agency, tribunal, or officer which rendered the decision in the first instance. Finally, it is settled that factual findings of administrative agencies are generally accorded respect and even finality by this Court, if such findings are supported by substantial evidence. The factual findings of the Secretary of Agrarian Reform who has acquired expertise in specific matters within his jurisdiction, deserve full respect and, without justifiable reason, ought not to be altered, modified or reversed.[16]

Also well-settled is the rule that the Supreme Court is not a trier of facts. When supported by substantial evidence, the findings of fact of the Court of Appeals are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions:

(1) When the conclusion is a finding grounded entirely on speculation, surmises and conjectures;

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[16] *Sebastian v. Morales*, G.R. No. 141116, February 17, 2003, 397 SCRA 549, 562.

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(2) When the inference made is manifestly mistaken, absurd or impossible;

(3) Where there is a grave abuse of discretion;

(4) When the judgment is based on a misapprehension of facts;

(5) When the findings of fact are conflicting;

(6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;

(7) When the findings are contrary to those of the trial court;

(8) When the findings of fact are conclusions without citation of specific evidence on which they are based;

(9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and

(10) When the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record.[17]

We find that this case falls under the exceptions, since the findings of fact of the DAR are contrary to that of the Court of Appeals warranting review by this Court.

Accordingly, we shall now focus on the findings of fact of the Court of Appeals, which categorically held as follows:

> One of the earliest issues that the petitioners' predecessor – Gavino Robles – raised was the question of who applied for retention. Gavino pointed to… – the Small Landowner's Undertaking, Application for Retention and Affidavit – that Vicente filed on January 31, 1976 to claim that Vicente was the sole applicant. Isabelita's name surfaced in the records of the case only through an Extrajudicial Settlement that Vicente filed in 1981 showing how he and his sister Isabelita

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[17] *Ontimare, Jr. v. Elep*, G.R. No. 159224, January 20, 2006, 479 SCRA 257, 265.

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were dividing up the estate of their deceased father (and presumably of their mother Trinidad although no information about her death can be found in the records before us). The petitioners did not frontally raise this same issue in the present petition for review, thus suggesting that this is not an issue before us. Whether the grantee of a right of retention had filed an application for retention, however, is a jurisdictional matter that the parties cannot simply gloss over; the DAR has no authority to decree a retention when no application was in the first place ever filed….

We find from our review that the above ruling is not supported by the records before us. The petition's Annex "A", to be sure, contains no indication that there is an applicant other than Vicente. Our examination of the records in fact shows that Vicente categorically claimed ownership of the lands he listed, with the qualification that "All the mentioned properties with the exception of TCT No. T-51369 are still in the names of the former owners". It likewise significantly appears that he only included his share of the Minalin, Pampanga ricelands (with areas of 2.3030 and 3.6998 respectively out of the total 24 hectares that had been placed under OLT) in his sworn declaration. This, in our view, confirms that he filed the application only in his own behalf.

We likewise examined the 1981 extrajudicial settlement, copy of which was attached as Annex "1" to the respondents' comment to the petition. While this notarized deed did mention Vicente was the "representative of my co-owner Isabelita Dayao," there was no mention that Isabelita was joining him as applicant for retention or that the deed was submitted for purposes of their application for retention. Thus, it requires a good stretch of the imagination to say – as the DAR did – that Isabelita had joined Vicente in the latter's application for retention.

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We disagree with the DAR and the OP's conclusions as we believe that Vicente failed to comply with the requirements for retention. He is not entitled to retention because he failed to list all his properties in his application and in the 1981 extrajudicial settlement he subsequently submitted. We base this conclusion on our reading that the legal significance and materiality of Gavino's submissions, consisting of the 1959 extrajudicial settlement and the various certifications issued by the Municipal Assessors of the different cities and municipalities of Bulacan, cannot be ignored and should have

been properly appreciated and given due weight by the DAR and by the Office of the President.

The 1959 extrajudicial settlement provides a summary of Anacleto's properties that Trinidad ([Anacleto's] wife), Vicente and Isabelita acquired by inheritance after Anacleto died in 1934. As the DAR order correctly noted, this extrajudicial settlement did not assign specific properties to the heirs but merely divided the inherited properties pro-indiviso; one-half of the totality went to Trinidad while the remaining half was divided between the children Vicente and Isabelita. In this light, this extrajudicial settlement may not be a conclusive indicator of Vicente's landholdings in 1976 (*i.e.*, at the time he applied for retention), but it is still material and significant for Vicente's application in terms of the properties it listed that continued to appear in Anacleto's name for taxation purposes under the Municipal Assessors' certifications, and as a standard of comparison to test the evidentiary weight of the 1981 extrajudicial settlement that the DAR almost wholly relied upon. Confronted with the 1959 extrajudicial settlement and the submitted certifications, the least that Vicente should have done is to explain and to reconcile the different listings of properties in the two extrajudicial settlements and his own 1976 sworn application for retention. It does not appear from the records before us, however, that Vicente ever made any such clarification. To us, this omission is legally significant as the burden of proving Vicente's entitlement thereby shifted. In the absence of any clarification from Vicente, the DAR lost its basis to justify Vicente's entitlement to retention. For, in our view, the 1959 extrajudicial settlement – read in relation with the Municipal Assessors' certifications and with the 1981 Extra Judicial Settlement of Estate – directly suggested that Vicente failed to give a complete listing of his landholdings when he applied for retention in 1976 and did not rectify it through the submission of the 1981 extrajudicial settlement. Thus, Vicente's application suffered from material omissions and was fatally incomplete. We find it significant that even in the petition before us, Vicente's heirs have been deafeningly silent about the 1959 extrajudicial settlement and the Municipal Assessors' certifications, apparently relying on the generalizations made in the DAR order regarding these submissions.

To illustrate the extent of the properties still in [Anacleto's] name, in Malolos City alone, there are several tracts of land that Vicente should have accounted for in his sworn application for retention. These

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are the following: (1) a 2,626 square meter land in Mabolo; and (2) the 935 square meter and the 333 square meter lands in San Vicente.

In the Municipality of Hagonoy, the Office of the Treasurer issued a certification that several lands in the different *barangays* of the municipality, with an aggregate of 81,223 square meters (8.1223 hectares), were still declared in [Anacleto's] name as of **1974**. Out of these total landholdings in Hagonoy, the 18,728 square meter land in San Miguel, Hagonoy and the 22,862 square meter land in San Agustin, Hagonoy were similarly not accounted for in Vicente's application. In addition, the Office of the Municipal Assessor of Hagonoy issued a certification that Anacleto owned a parcel of land measuring 15,448 square meters (1.5448 hectares) in Abulalas and that several parcels of land in the different *barangays* of the municipality, with an aggregate area of 18,420 square meters (1.842 hectares), are claimed either by Trinidad or Anacleto although these lands are now declared in Gavino's name. Vicente likewise did not declare these lands in his application, although the San Pablo lands were mentioned in the 1981 extrajudicial settlement.

In Paombong, the Office of the Municipal Assessor issued a certification that Anacleto was the previous owner of a parcel of land measuring 11,634 square meters (1.1634 hectares) located in Barangay Pinalagdan (in 1997, this land was already declared in the name of Gabriel Sapitan) and that Trinidad claimed a 10,389 square meter – (1.0389 hectares) land located in the same *barangay*. Vicente also did not likewise account for these lands in his application. In addition, Anacleto was the previous declarant of a parcel of land, with an area of 2,051 square meters, situated in Barangay, San Isidro II (which in 1997 was already declared in the name of Melchor de Roxas, married to Cecilia Torres), which was likewise not listed in Vicente's application for retention.

Since no other heirs were indicated in the records and since all these lands already belonged to Anacleto's heirs after his death in 1934, Vicente had been less than forthright in the application for retention that the DAR passed upon. His application therefore should have been disapproved for its patent incompleteness that left the DAR with no certain way of knowing, given Vicente's silence, how and why he should be entitled to retention. Both the DAR on motion for reconsideration and the Office of the President should have made this conclusion as they had the benefit of Gavino's critical submissions. DAR Region III, for its part, is no less responsible for what happened in light of its unusually lengthy inaction, and its failure to inquire

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deeper given two extrajudicial settlements that substantially differed in their listed properties. In sum, we hold that both the DAR and the OP misappreciated material evidence and thus made the wrong considerations when they approved Vicente's application for retention.[18]

After careful perusal of the records, we find that the abovementioned findings of fact of the Court of Appeals are accurate and well documented. We therefore sustain its findings that Isabelita Dayao did not apply for retention, and Vicente's application for retention failed to comply with the legal requirements for retention, such application being "insufficient, incomplete and lacking in forthrightness." Indeed, the DAR had no basis for granting Vicente's application for retention. Hence, the Court of Appeals committed no error in granting Gavino Robles' petition below.

WHEREFORE, the instant petition of petitioners Dayaos is *DENIED*. The assailed Decision dated January 26, 2006 and Resolution dated September 22, 2006 of the Court of Appeals in CA-G.R. SP No. 81637 are *AFFIRMED*.

Costs against petitioners.

SO ORDERED.

Carpio Morales, Chico-Nazario,[*] *Nachura,*[**] and *Leonardo-de Castro,*[***] *JJ.,* concur.

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[18] *Rollo,* pp. 49-61.

[*] Designated member of the Second Division per Special Order No. 658.

[**] Designated member of the Second Division per Special Order No. 665.

[***] Designated member of the Second Division per Special Order No. 635.