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THIRD DIVISION

[G.R. No. 153850. August 31, 2006]

JOVENDO DEL CASTILLO, *petitioner, vs.* **ABUNDIO ORCIGA, EMELINA ORCIGA-VOLANTE, PILAR ORCIGA CLEMENA, ADELAIDA ORCIGA GENIO, NENITA ORCIGA ELEDA, YOLANDA ORCIGA TAKASAN and ALBERTO ORCIGA,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; LAND REFORM PROGRAM; PD NO. 27; CERTIFICATE OF LAND TRANSFER; PROVES INCHOATE OWNERSHIP OF AN AGRICULTURAL LAND DEVOTED TO RICE AND CORN PRODUCTION.** — Undeniably, Eugenio Orciga, the original beneficiary and predecessor-in-interest of respondents, was awarded Certificate of Land Transfer No. 0070176 over the contested land pursuant to PD No. 27. Therefore, for all intents and purposes, he is the acknowledged owner of the contested land. A Certificate of Land Transfer (CLT) is a document issued to a tenant-farmer, which proves **inchoate ownership** of an agricultural land primarily devoted to rice and corn production. It is issued in order for the tenant-farmer to acquire the land. This certificate prescribes the terms and conditions of ownership over said land and likewise describes the landholding — its area and its location. A CLT is the provisional title of ownership over the landholding while the lot owner is awaiting full payment of the land's value or for as long as the beneficiary is an "amortizing owner."

2. **ID.; ID.; ID.; QUALIFIED FARMER-BENEFICIARY "DEEMED OWNER" OF THE LAND THEY ACQUIRED BY VIRTUE OF PD NO. 27.** — As of May 28, 1991, when petitioner grabbed possession of the said land, respondents, as successors-in-interest of Eugenio Orciga, had not yet been issued an Emancipation Patent because they were still paying lease-rentals or the agreed share to the lot owner. Since the respondents were not able to continue cultivating the land and pay the share of petitioner's father, Jovendo del Castillo insists that he should

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be allowed to take over and possess the land. Petitioner's asseveration that he is still entitled to possess and cultivate said farmland does not hold water under PD No. 27 and Executive Order No. 228 (EO No. 228). PD No. 27 took effect on October 21, 1972 while EO No. 228 became effective on July 17, 1987. The said decree provides that the tenant-farmer should be a full-fledged member of a duly recognized farmer's cooperative. If the private agricultural land is primarily devoted to rice and corn under a system of share-a-crop or lease tenants, the tenant-farmer shall be a "deemed owner" of a portion constituting a family-size farm of five (5) hectares, if not irrigated and three (3) hectares, if irrigated. To determine the cost of the land to be transferred to the tenant-farmer under PD No. 27, the value of the land shall be equivalent to two and one half (2 1/2) times the average harvest of three normal crop years. The 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. Then, the landholding is transferred by the Department of Agrarian Reform to the tenant-farmer, and a CLT is issued to him; thereafter, the tenant-farmer starts to pay the amortizations to the land-owner. The CLT of Eugenio Orciga was issued on April 3, 1981; thus, he has been the rightful owner of said farmland by virtue of PD No. 27.

3. **ID.; ID.; ID.; LANDOWNER ASSURED OF PAYMENT EVEN IF TENANT-FARMER DEFAULTS IN PAYING AMORTIZATION; AMORTIZATIONS DUE SHALL BE PAID BY THE FARMER'S COOPERATIVE.** — PD No. 27 is clear that in case of non-payment, the amortizations due shall be paid by the farmer's cooperative in which the defaulting tenant-farmer is a member, with the cooperative having a right of recourse against the farmer. The government shall guarantee such amortizations with shares of stocks in government-owned and government-controlled corporations. Clearly, therefore, the landowner is assured of payment even if the tenant-farmer defaults in paying amortizations since the farmers' cooperative will assume paying the amortizations.

4. **ID.; ID.; ID.; REVERSION OF THE LAND HOLDING TO THE OWNER IS PROSCRIBED.** — With regard to the reversion of the landholding to the owner, this is proscribed under PD No. 27 since it is explicitly provided that: Title to land acquired pursuant to this Decree or the Land Reform Program of the

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Government shall not be transferable except by the hereditary succession or to the Government in accordance with the provisions of this Decree, the Code of Agrarian Reform and other existing laws and regulations (par. 13). The landowner has no reason to complain since full payment of the value is even guaranteed by the shares of stocks of government corporations. In the light of this decree, petitioner del Castillo's position — that his possession of the landholding be maintained — has no strong legal mooring under PD No. 27.

5. ID.; ID.; ID.; RECONVEYANCE OF THE LAND TO FORMER OWNERS NOT ALLOWED ALTHOUGH THERE WAS FAILURE OF THE HEIRS TO PAY THE LANDOWNER'S SHARE OR COMPENSATION; OPTIONS AVAILABLE TO THE FORMER LANDOWNER. — In the case at bar, the **petitioner has two options; first,** to bring the dispute on the non-payment of the land to the DAR and the Barangay Committee on Land Production that will subsequently resolve said dispute pursuant to Ministry of Agrarian Reform (MAR) Memorandum Circular No. 26, series of 1973 and other issuances; and, **second,** to negotiate with the DAR and LBP for payment of the compensation claim pursuant to Section 2 of EO No. 228. Eventually, the scheme under EO No. 228 will result to the full payment of the compensation of the value of the land to Menardo del Castillo, petitioner's father and former landowner. From the foregoing options, it is indubitably clear that the reconveyance of the land to the former owner is not allowed. The policy is to hold such lands under trust for the succeeding generations of farmers. The objective is to prevent repetition of cases where the lands distributed to the tenant-farmers reverted to the former lot owners or even conveyed to land speculators. Thus, possession of the land cannot be restored to petitioner del Castillo although there was failure of the heirs to pay the landowner's share or compensation. The transfer or conveyance of the riceland can only be made to an heir of the beneficiary or to any other beneficiary who shall in turn cultivate the land. In the case in hand, even if Ronald Orciga has abandoned the land, the right to possess and cultivate the land legally belongs to the other heirs of Eugenio Orciga. Undoubtedly, petitioner del Castillo is not a beneficiary of Eugenio Orciga — the original beneficiary;

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hence, petitioner has no legal right to the possession of the farmland.

6. **ID.; ID.; MAR MEMORANDUM CIRCULAR NO. 19; OWNERSHIP AND CULTIVATION OF THE LAND SHALL BE CONSOLIDATED IN ONE HEIR; ORDER OF PREFERENCE.**— On the other issue of deceased Eugenio Orciga's successor, the Court rules that the July 1, 1991 Agreement among the heirs of Eugenio Orciga (that stipulated a provision for a rotation system in the cultivation of the riceland among themselves) directly contravenes Ministry Memorandum Circular No. 19, Series of 1978. The said ministry memorandum circular states that: Where there are several heirs, and in the absence of extra judicial settlement or waiver of rights in favor of one heir who shall be the sole owner and cultivator, the heirs shall[,] **within one month** from the death of the tenant-beneficiary[,] be free to choose from among themselves one who shall have sole ownership and cultivation of the land, x x x **Provided, however, That [sic] the surviving spouse shall be given first preference; otherwise, in the absence or due to the permanent incapacity of the surviving spouse, priority shall be determined among the heirs according to age.** x x x. The records show that Emelina Orciga Volante is desirous to avail herself of the right to cultivate the land according to the rotation system of the heirs. This is contrary to MAR Memorandum Circular No. 19, which requires that the ownership and cultivation shall be consolidated in one heir. The said agreement is therefore illegal and ineffective. The heirs must agree on one of them to be the owner-cultivator of the land in accordance with the law, but priority is granted to the surviving spouse, and in the latter's absence or permanent incapacity, the age of the heirs will be used to decide who should succeed as farmer-beneficiary.

APPEARANCES OF COUNSEL

Sonny H. Manlangit for petitioner.
Ma. Elena B. Naval for respondents.

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DECISION

VELASCO, JR., *J.*:

If my land has cried out against me, and its furrows have wept together; if I have eaten its yield without payment, and caused the death of its owners, let thorns grow instead of wheat, and foul weeds instead of barley.

—Job 31:38-40[1]

Land has spawned countless disputes because man is inexorably bound to it from cradle to grave for domicile, life sustenance, and other fundamental needs. For others, having a small landholding is their only means to get out of bondage and oppression or to build a promising future for their progeny. Possession or ownership of land can either promote or deprive other people of social justice; thus, courts must exercise utmost care and diligence to ensure that decisions on disputes involving lands promote social justice. As succinctly expressed in *Gelos v. Court of Appeals*, "social justice–or any justice for that matter–is for the deserving, whether he be a millionaire in his mansion or a pauper in his hovel."[2]

This case at bar illustrates how courts should vigilantly, consistently, and steadfastly uphold the principle that justice is for all and for the deserving–in the same way that "the State shall be guided by the principle that land has a social function and land ownership has a social responsibility."[3]

The Case

In this Petition for Review on *Certiorari*, petitioner del Castillo seeks the nullification of the November 26, 2002 Decision of

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[1] NEW REVISED STANDARD VERSION OF THE BIBLE (1990).

[2] *Land Bank of the Philippines v. Court of Appeals, et al. & Department of Agrarian Reform v. Court of Appeals, et al.*, G.R. Nos. 118712 & 118745, October 6, 1995, 249 SCRA 149, 151, citing 208 SCRA 608, 615 (1992), penned by Justice Isagani Cruz, quoting Justice Alicia Sempio-Diy.

[3] RA 6657 (Comprehensive Agrarian Reform Law), Sec. 2.

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the Court of Appeals (CA) in CA-G.R. SP No. 66122, ordering him to vacate the subject landholding and directing the Department of Agrarian Reform Adjudication Board (DARAB) to restore possession of the farm lot to respondents.

The Facts

Petitioner Jovendo del Castillo is the son and administrator of Menardo del Castillo, who previously owned a 1.3300-hectare riceland located at Omabo, Polpog, Bula, Camarines Sur. The farmland was formerly cultivated by Eugenio Orciga.[4]

Pursuant to Presidential Decree No. 27 (PD No. 27),[5] Eugenio Orciga became the beneficiary of the Land Transfer Program of the government during his lifetime. He was awarded Certificate of Land Transfer No. 0-070176 over the said landholding on April 3, 1981.

On August 1, 1988, Eugenio Orciga died. However, prior to the final selection and determination of the successor of the deceased tenant, on July 1, 1991, the heirs agreed to rotate among themselves the cultivation of the riceland covered by said CLT, as follows:

a.	Ronald Orciga	–	May 1989	-	May 1991
b.	Emelina Volante	–	May 1991	-	May 1992
c.	Alberto Orciga	–	May 1992	-	May 1993
d.	Adelaida Genio	–	May 1993	-	May 1994
e.	Pilar Clemena	–	May 1994	-	May 1995
f.	Nenita Eleda	–	May 1995	-	May 1996
g.	Abundio Orciga	–	May 1996	-	May 1997
h.	Yolanda Takasan	–	May 1997	-	May 1998[6]

[4] Complaint, *rollo*, p. 12.

[5] PD No. 27 was the law in force at the time, and this law continues to govern the relations between landowners and farmer-beneficiaries. On June 15, 1988, Rep. Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL) of 1988, became effective, but this law has prospective application, and is not controlling in the present case.

[6] Temporary Agreement of the Children of the Late Eugenio Orciga to Rotate the Cultivation of the Land Covered by CLT No. 0-070176, records, p. 68.

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After cultivating and harvesting the riceland from 1989 to 1991, Ronald Orciga abandoned the said farm on May 3, 1991, and eventually left the barrio without turning over the landowner's share of the agricultural harvest.[7]

On May 28, 1991, fully armed with guns, petitioner del Castillo–a member of the CAFGU (Citizens Armed Forces Geographical Unit)–forcibly entered the riceland of the late Eugenio Orciga. He started to cultivate the said land over the objection of the respondents, effectively ejecting them from their possession and cultivation of the land.[8]

Respondents filed a Complaint on June 10, 1991, with the Office of Provincial Adjudicator, DARAB, Naga City, docketed as DARAB Case No. 0000437 for Reinstatement with Mandatory Injunction and Damages[9] entitled *Abundo Orciga, et al. v. Jovendo Del Castillo.*

In his Answer with Counterclaim[10] filed on July 5, 1991, petitioner averred that on May 6, 1991, he had written a letter-complaint to Engr. Jaime Abonita, Municipal Agrarian Reform Officer (MARO), Bula, Camarines Sur, informing Abonita that beginning the second harvest in 1987, Ronald Orciga had failed and refused to give the lessor's share of the harvest despite repeated demands. In said Answer, petitioner del Castillo stated that he had sought the assistance of DAR Para-Legal Officer Gilbert Villar, who advised him that in the absence and until the return of tenant-lessee Ronald Orciga, he could take over the cultivation of the land. He also denied ejecting respondents from the land considering that certain mortgagees were cultivating the riceland and in actual possession of it. He claimed that Ronald Orciga mortgaged portions of the farm to Danilo Pornillos for Php 3,500.00[11] and to Antonio Timado for Php3,500.00.[12]

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[7] See *rollo,* pp. 17 & 53.

[8] *Supra* note 4.

[9] *Id.*

[10] *Rollo,* p. 16.

[11] Joint Affidavit, records, p. 108.

[12] Affidavit of Antonio Timado, records, p. 105.

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To respondents' Complaint and petitioner's Answer with Counterclaim, Provincial Adjudicator Virgil G. Alberto then rendered his June 30, 1994 Decision in favor of petitioner, the *fallo* of which reads:

WHEREFORE, the petition for reinstatement is hereby dismissed for lack of cause of action.

Rolando Orciga is therefore given until the next cropping season of 1994 to personally cultivate said farmholding, subject to payment of arrearages on rentals.[13]

Believing that the Provincial Adjudicator had erred in his Decision, respondents filed a Motion for Reconsideration on August 1, 1994, claiming that the Provincial Adjudicator's Decision was "contrary to law and not in accordance with the provisions and intent of *MAR Memorandum Circular No. 19, series of 1978*, in relation to *A.O. 4, series of 1988*";[14] but in his August 22, 1994 Resolution, the Provincial Adjudicator rejected the plea for reconsideration.[15] Consequently, on September 1, 1994, respondents filed an appeal before the DARAB which was docketed as DARAB Case No. 3992 (Reg. Case No.05-437-CS-94). On March 9, 1998, the DARAB rendered its judgment, thus:

WHEREFORE, premises considered, the appealed decision is hereby ANNULED [sic] AND A NEW DECISION is hereby rendered:

1. Placing the disposition of subject landholding with the DAR, particularly the PARO of Camarines Sur, for the implementation of Ministry Memorandum Circular No. 19, Series of 1978, as amended by DAR Administrative Order No. 14, Series of 1988;

2. Ordering defendant-appellee, and/or any person/s acting in his behalf, to vacate subject landholding for the proper disposition of the DAR.

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[13] *Rollo*, p. 23.

[14] Records, p. 123.

[15] *Rollo*, p. 25.

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Let the records of this case be remanded to the sala of the Provincial Adjudicator *a quo* for the issuance of a writ of execution.[16]

On April 16, 1988, petitioner filed a Motion for Reconsideration, but the DARAB, in its February 7, 2001 Resolution,[17] rejected petitioner's motion.

Undaunted, del Castillo, on July 18, 2001, interposed a petition for review before the CA,[18] which was docketed as CA G.R. SP No. 66122.

Ruling of the Court of Appeals

The appellate court concluded that petitioner del Castillo had no right to take possession of the farmland being disputed even if the heirs had failed to deliver the agricultural lessor's share. It held that when the beneficiary abandons the tillage or refuses to gain rights accruing to the farmer-beneficiary under the law, it will be reverted to the government and not to the farm lot owner.[19]

The dispositive portion of the CA's November 26, 2001 Decision reads:

WHEREFORE, the petition is **DENIED** for lack of merit. The petitioner is hereby ordered to vacate the premises in question. The DARAB is hereby directed to immediately reinstate possession of the landholdings to respondents.

Costs against the petitioners.[20] [sic, 'petitioners' should be 'petitioner']

On December 13, 2001, petitioner filed a Motion for Reconsideration of said Decision, but the CA discarded the said motion for lack of merit in its May 7, 2002 Resolution.[21]

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[16] *Rollo*, p. 32.

[17] *Rollo*, p. 39.

[18] *Rollo*, p. 42.

[19] CA Decision (penned by Associate Justice Eugenio S. Labitoria with Associate Justices Teodoro P. Regino and Rebecca De Guia-Salvador, concurring), *rollo*, p. 55.

[20] *Id.* at 56.

[21] *Rollo*, p. 62.

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Persistent, petitioner now seeks a fourth and final review of his case through a Petition for Review on *Certiorari*[22] before this Court.

The Issue

The main issue is who should be entitled to possess the disputed landholding under the DAR Land Transfer Program – the petitioner, as representative of the former titled landowner, or the respondents, as successors of the deceased beneficiary.

The Court's Ruling

The Court holds respondents to be the rightful possessors of the disputed farmland and at the same time, rejects the instant petition.

The Main Issue: Who is Entitled to the Possession of the Riceland

Petitioner del Castillo asserts that restoring the possession of the riceland to the respondents would be prejudicial to the interest of Menardo del Castillo, the former landowner, due to the unjustified abandonment of said landholding by Ronald Orciga, the designated successor of the beneficiary, Eugenio Orciga. He also argues that his father, Menardo del Castillo, is still entitled to just and full compensation of the riceland which, at the time the case was originally filed before the Office of the Provincial Agrarian Reform Adjudicator of Camarines Sur, had not been paid by Eugenio Orciga. Furthermore, he claims that because of the respondents' pending payment of the amortizations, he should still be considered the owner of the riceland. Based on such reasons, he concludes that he is entitled to possess and cultivate the land as administrator on behalf of his father.

We **DISAGREE.**

Undeniably, Eugenio Orciga, the original beneficiary and predecessor-in-interest of respondents, was awarded Certificate of Land Transfer No. 0070176 over the contested land pursuant to PD No. 27. Therefore, for all intents and purposes, he is the acknowledged owner of the contested land.

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[22] *Rollo*, p. 4.

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A Certificate of Land Transfer (CLT) is a document issued to a tenant-farmer, which proves **inchoate ownership** of an agricultural land primarily devoted to rice and corn production. It is issued in order for the tenant- farmer to acquire the land. This certificate prescribes the terms and conditions of ownership over said land and likewise describes the landholding—its area and its location. A CLT is the provisional title of ownership over the landholding while the lot owner is awaiting full payment of the land's value or for as long as the beneficiary is an "amortizing owner."[23]

Section 1 of Presidential Decree No. 266 states that:

> [u]pon receipt of the copy of the CLT, the Register of Deeds concerned shall record it in the primary entry book and annotate a memorandum thereof in the corresponding certificate of title covering the land, without need of prior surrender of the owner's duplicate certificate of title. It shall be the duty of the Register of Deeds to notify the registered owner concerned of such fact within a reasonable time (par. 2).

More so, under Section 1 of Presidential Decree No. 315, the CLT shall be accepted as collateral for loans.

Land transfer under PD No. 27 is effected in two (2) stages: (1) issuance of a CLT to a farmer-beneficiary as soon as DAR transfers the landholding to the farmer-beneficiary in recognition that said person is a "deemed owner"; and (2) issuance of an Emancipation Patent as proof of full ownership of the landholding upon full payment of the annual amortizations or lease rentals by the farmer or beneficiary.[24]

As of May 28, 1991, when petitioner grabbed possession of the said land, respondents, as successors-in-interest of Eugenio Orciga, had not yet been issued an Emancipation Patent because they were still paying lease-rentals or the agreed share to the lot owner. Since the respondents were not able to continue

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[23] H. De Leon, *TEXTBOOK ON AGRARIAN REFORM AND TAXATION* (1990), 99.

[24] *Id.* at 98.

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cultivating the land and pay the share of petitioner's father, Jovendo del Castillo insists that he should be allowed to take over and possess the land.

Petitioner's asseveration that he is still entitled to possess and cultivate said farmland does not hold water under PD No. 27 and Executive Order No. 228 (EO No. 228).

PD No. 27 took effect on October 21, 1972 while EO No. 228 became effective on July 17, 1987.

The said decree provides that the tenant-farmer should be a full- fledged member of a duly recognized farmer's cooperative. If the private agricultural land is primarily devoted to rice and corn under a system of share-a-crop or lease tenants, the tenant-farmer shall be a "deemed owner" of a portion constituting a family-size farm of five (5) hectares, if not irrigated and three (3) hectares, if irrigated.

To determine the cost of the land to be transferred to the tenant-farmer under PD No. 27, the value of the land shall be equivalent to two and one half (2 ½) times the average harvest of three normal crop years. The 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. Then, the landholding is transferred by the Department of Agrarian Reform to the tenant-farmer, and a CLT is issued to him; thereafter, the tenant-farmer starts to pay the amortizations to the land-owner.

The CLT of Eugenio Orciga was issued on April 3, 1981; thus, he has been the rightful owner of said farmland by virtue of PD No. 27.

Let us now move on to the other issue of non-payment of the amortizations on said farmland–which is del Castillo's basis to insist ownership over the land on his father's behalf.

PD No. 27 is clear that in case of non-payment, the amortizations due shall be paid by the farmer's cooperative in which the defaulting tenant-farmer is a member, with the cooperative having a right of recourse against the farmer. The

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government shall guarantee such amortizations with shares of stocks in government-owned and government-controlled corporations.

Clearly, therefore, the landowner is assured of payment even if the tenant-farmer defaults in paying amortizations since the farmers' cooperative will assume paying the amortizations.

With regard to the reversion of the landholding to the owner, this is proscribed under PD No. 27 since it is explicitly provided that:

> Title to land acquired pursuant to this Decree or the Land Reform Program of the Government shall not be transferable except by the hereditary succession or to the Government in accordance with the provisions of this Decree, the Code of Agrarian Reform and other existing laws and regulations (par. 13).

The landowner has no reason to complain since full payment of the value is even guaranteed by the shares of stocks of government corporations.

In the light of this decree, petitioner del Castillo's position–that his possession of the landholding be maintained–has no strong legal mooring under PD No. 27.

On July 17, 1987, former President Corazon C. Aquino issued Executive Order No. 228 which provides that as of October 21, 1972, all qualified farmer-beneficiaries are now "deemed full owners" of the land they acquired by virtue of PD No. 27.[25] E.O. No. 228 modified PD No. 27 on the manner of payment of the value of the land to the landowner.

EO No. 228 even provided for different modes of payment of the value of the land, thus:

> SECTION 3. Compensation shall be paid to the landowners in any of the following modes, at the option of the landowners:
>
> (a) Bond payment over ten (10) years, with ten percent (10%) of the value of the land payable immediately in cash, and the balance in the form of LBP bonds bearing market rates of interest that are

[25] E.O. No. 228, Sec. 1.

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aligned with 90-day treasury bills rates, net of applicable final withholding tax. One-tenth of the face value of the bonds shall mature every year from the date of issuances until the tenth year.

The LBP bonds issued hereunder shall be eligible for the purchase of government assets to be privatized;

(b) Direct payment in cash or kind by the farmer-beneficiaries with the terms to be mutually agreed upon by the beneficiaries and landowners and subject to the approval of the Department of Agrarian Reform; and

(c) Other modes of payment as may be prescribed or approved by the Presidential Agrarian Reform Council.

If the landowner decides that the financing should be extended by Land Bank for the payment of the value of the land to him under Section 3(a) of EO No. 228, a mortgage is constituted over the landholding.

Section 7 of the Executive Order provides:

As of the date of this Executive Order, a lien by way of mortgage shall exist in favor of the Land Bank on all lands it has financed and acquired by the farmer-beneficiary by virtue of P.D. No. 27 for all amortizations, both principal and interest, due from the farmer-beneficiary or a valid transferee until the amortizations are paid in full.

In this manner of payment, the farmer-beneficiary pays the amortizations directly to the Land Bank and no longer to the land owner.

However, the failure of the farmer-beneficiary to pay three (3) annual amortizations to Land Bank will result in the foreclosure of the mortgage.[26]

Section 11, EO No. 228 further directs the Land Bank, within three (3) months from the transfer of the land, to sell the foreclosed land to any interested landless farmer duly certified as a bona fide landless farmer by the Department of Agrarian Reform of the *barangay* or the two closest *barangays* where the land is located.

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[26] *Id.* at Sec. 8.

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Specifically, Section 2 of EO No. 228 explains the procedure on the payment of lease rentals by the farmer-beneficiary who was granted a CLT under PD No. 27. If a dispute arises, the mechanism for its resolution is as follows:

> Lease rentals paid to the landowner by the farmer beneficiary after October 21, 1972, shall be considered as advance payment for the land. In the event of dispute with the landowner regarding the amount of lease rental paid by the farmer beneficiary, the Department of Agrarian Reform and the Barangay Committee on Land Production concerned shall resolve the dispute within thirty (30) days from its submission pursuant to Department of Agrarian Reform Memorandum Circular No. 26, series of 1973, and other pertinent issuances. In the event a party questions in court the resolution of the dispute, the landowner's compensation claim shall still be processed for payment and the proceeds shall be held in trust by the Trust Department of the Land Bank in accordance with the provisions of Section 5 hereof, pending the resolution of the dispute before the court.[27]

Unmistakably, that in case the farmer-beneficiary under PD No. 27 is unable to pay the agreed lease rentals, the LBP will process the compensation claim for payment; and the proceeds shall be held in trust by its Trust Department until the landowner finally accepts the payment or the court orders him to accept it. Under Section 7 of EO No. 228, a lien by way of mortgage shall exist in favor of LBP on the land it has financed in favor of a farmer-beneficiary under PD No. 27. In short, the payment of the full value of the land to the landowner is assured under EO No. 228, which explains the rule that even if the lease-rentals or amortizations have not been paid to the landowner, the possession is retained by the farmer-beneficiary.

In the case at bar, the **petitioner has two options; first,** to bring the dispute on the non-payment of the land to the DAR and the Barangay Committee on Land Production that will subsequently resolve said dispute pursuant to Ministry of Agrarian Reform (MAR) Memorandum Circular No. 26, series of 1973 and other issuances; and, **second,** to negotiate with the DAR and LBP for payment of the compensation claim pursuant to

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[27] *Id.* at Sec. 2, par. 2.

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Section 2 of EO No. 228. Eventually, the scheme under EO No. 228 will result to the full payment of the compensation of the value of the land to Menardo del Castillo, petitioner's father and former landowner.

From the foregoing options, it is indubitably clear that the reconveyance of the land to the former owner is not allowed. The policy is to hold such lands under trust for the succeeding generations of farmers.[28] The objective is to prevent repetition of cases where the lands distributed to the tenant-farmers reverted to the former lot owners or even conveyed to land speculators.[29] Thus, possession of the land cannot be restored to petitioner del Castillo although there was failure of the heirs to pay the landowner's share or compensation. The transfer or conveyance of the riceland can only be made to an heir of the beneficiary or to any other beneficiary who shall in turn cultivate the land. In the case in hand, even if Ronald Orciga has abandoned the land, the right to possess and cultivate the land legally belongs to the other heirs of Eugenio Orciga. Undoubtedly, petitioner del Castillo is not a beneficiary of Eugenio Orciga–the original beneficiary; hence, petitioner has no legal right to the possession of the farmland.

On the other issue of deceased Eugenio Orciga's successor, the Court rules that the July 1, 1991 Agreement among the heirs of Eugenio Orciga (that stipulated a provision for a rotation system in the cultivation of the riceland among themselves) directly contravenes Ministry Memorandum Circular No. 19, Series of 1978. The said ministry memorandum circular states that:

> Where there are several heirs, and in the absence of extra judicial settlement or waiver of rights in favor of one heir who shall be the sole owner and cultivator, the heirs shall[,] within one month from the death of the tenant-beneficiary[,] be free to choose from among

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[28] *Supra* note 23, at 93, citing Perfecto V. Fernandez, *Agrarian Reform Laws in the Philippines*, SEMINAR PAPERS ON AGRARIAN REFORM, 11.

[29] *Id.*

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themselves one who shall have sole ownership and cultivation of the land, x x x *Provided,* however, That [sic] **the surviving spouse shall be given first preference; otherwise, in the absence or due to the permanent incapacity of the surviving spouse, priority shall be determined among the heirs according to age** (emphases supplied).[30]

Moreover, the ministry memorandum circular also provides that:

1. Succession to the farmholding covered by Operation Land Transfer shall be governed by the pertinent provisions of the New Civil Code of the Philippines subject to the following limitations:

a. The farmholding shall not be partitioned or fragmented.

b. The ownership and cultivation of the farmholding shall ultimately be consolidated in **one heir** who possesses the following qualifications:

(1) being a full-fledged member of a duly recognized farmers' cooperative;

(2) capable of personally cultivating the farmholding; and

(3) willing to assume the obligations and responsibilities of a tenant-beneficiary.

c. Such owner-cultivator shall compensate the other heirs to the extent of their respective legal interest in the land, subject to the payment of whatever outstanding obligations of the deceased tenant-beneficiary. (Emphasis supplied.)

The records show that Emelina Orciga Volante is desirous to avail herself of the right to cultivate the land according to the rotation system of the heirs. This is contrary to MAR Memorandum Circular No. 19, which requires that the ownership and cultivation shall be consolidated in one heir. The said agreement is therefore illegal and ineffective. The heirs must agree on one of them to be the owner-cultivator of the land in accordance with the law, but priority is granted to the surviving spouse, and in the latter's absence or permanent incapacity,

[30] Par. 2.b.

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the age of the heirs will be used to decide who should succeed as farmer-beneficiary.

WHEREFORE, the November 26, 2002 Decision of the Court of Appeals is hereby *AFFIRMED* with *MODIFICATIONS*, as follows:

1. The respondents or heirs of the late Eugenio Orciga are ordered, within one month from finality of this Decision, to choose the sole owner and cultivator of the landholding from among themselves, giving first preference to his surviving spouse, or in her absence or incapacity, from among the heirs, and to give priority according to age of the heirs in accordance with MAR Memorandum Circular No. 19, Series of 1978.

2. In case of respondents' failure to comply with MAR Memorandum Circular No. 19, Series of 1978, the DAR is ordered to determine the heir or successor-in-interest of the late Eugenio Orciga as farmer-beneficiary within one month reckoned from the lapse of the 30-day period given to respondents to determine the sole owner-cultivator.

3. Petitioner Jovendo del Castillo is ordered to immediately surrender possession of the disputed landholding to respondents, and the DARAB is directed to ensure the immediate restoration of possession of said landholding to the respondents.

Costs against the petitioner.

SO ORDERED.

Quisumbing (Chairperson), Carpio, Carpio Morales, and *Tinga, JJ.,* concur.