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SECOND DIVISION

[G.R. No. 111387. June 8, 2004]

JUSTINA ADVINCULA-VELASQUEZ, *petitioner, vs.* **COURT OF APPEALS, HON. VIVENCIO G. LIRIO and REMMAN ENTERPRISES, INC.,** *respondents*.

[G.R. No. 127497. June 8, 2004]

JUSTINA ADVINCULA-VELASQUEZ, *petitioner, vs.* **COURT OF APPEALS, and REMMAN ENTERPRISES, INC.,** *respondents*.

SYNOPSIS

Spouses Velasquez were the agricultural lessees of a riceland in Parañaque which was sold to Delta Motors Corp., mortgaged to Philippine National Bank, and subsequently, sold to respondent corporation. While Velasquez was trying to redeem the subject property under PD No. 27, the same had been reclassified as low density residential zone. Nonetheless, the Court had ruled that Velasquez may redeem the property. Respondent, for its part, received a favorable decision in its case for unlawful detainer against Velasquez and eventually, as the decision became final, a writ of execution was subsequently issued. Thereafter, Velasquez filed a complaint for redemption before the Provincial Agrarian Reform Adjudicator (PARAD) and also filed a petition for *certiorari* and prohibition with the Court of Appeals (CA) for the nullification of the issued writ of execution. The CA dismissed the petition on the ground of violation of the hierarchy of courts. Hence, the petition.

The Court ruled that while the RTC and the CA may have concurrent jurisdiction to issue writs for *certiorari* and prohibition, the hierarchy of courts must be respected. Thus, the CA decision was affirmed. The PARAD, on the other hand, ruled that it had no jurisdiction over non-agricultural lands. Velasquez countered that the conversion of the property from agricultural into non-agricultural was made without approval of the Department of Agrarian Reform (DAR). The Court ruled:

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since the reclassification of property was properly made before the effectivity of the Comprehensive Agrarian Reform Law, there was no need for a *post-facto* approval from the DAR. Thus, the PARAD had no jurisdiction over Velasquez' petition for redemption. As there was no appeal of the PARAD decision, the same had become final and executory.

SYLLABUS

1. REMEDIAL LAW; JURISDICTION; CONCURRENT JURISDICTION OF COURTS TO ISSUE WRITS OF *CERTIORARI* AND PROHIBITION; HIERARCHY OF COURTS MUST BE OBSERVED. — We agree that under B.P. Blg. 129, the RTC and the Court of Appeals, in the exercise of its original jurisdiction or in aid of its appellate jurisdiction, have concurrent jurisdiction to issue writs of *certiorari* and prohibition. However, in *People vs. Cuaresma*, we emphasized that this concurrence of jurisdiction is not to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefore will be directed. We added that: There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") court should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. In *Santiago v. Vasquez*, we took particular note that: . . . [T]he propensity of litigants and lawyers to disregard the hierarchy of courts must be put to a halt, not only because of the imposition upon the precious time of this Court, but also because of the inevitable and resultant delay, intended or otherwise, in the adjudication of the case which often has to be remanded or referred to the lower court, the proper forum under the rules of procedure, or as better equipped to resolve the issues since this Court is not a trier of facts. . . We agree that the compliance with the hierarchy of courts may be relaxed for special and important reasons, clearly and specifically set out in the petition. However, so such reasons were set forth in the petition in CA-G.R. SP No. 30727 to justify the petitioner's filing thereof in the Court of Appeals instead of

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the RTC. That the latter court had decided her appeal in Civil Case No. 16553 and affirmed the decision of the MTC in Civil Case No. 7223 which, in turn, ordered the eviction of the petitioner from the property, is not a justification to bypass the RTC and file the petition for *certiorari* in the Court of Appeals.

2. LABOR AND SOCIAL LEGISLATION; CLASSIFICATION OF LAND; LANDHOLDING PROPERLY RECLASSIFIED FROM AGRICULTURAL TO RESIDENTIAL BEFORE THE EFFECTIVITY OF THE COMPREHENSIVE AGRARIAN REFORM LAW (RA 6657); NO *POST FACTO* APPROVAL FROM THE DEPARTMENT OF AGRARIAN REFORM REQUIRED. — The records show that as early as 1981, the landholding in issue was reclassified as a low density zone under Metro Manila Zoning Ordinance No. 81-01, Series of 1981 before Rep. Act No. 6657 took effect on June 15, 1998. The HSRC issued a preliminary approval and location clearance, as well as a development permit on December 2, 1986 to the respondent. On January 15, 1987, the HSRC, likewise, issued a license in favor of the respondent to sell the 1,086 subdivision lots. In the said permit and license, the property was classified as a second class housing project. The Commission also declared therein that such housing project conformed to B.P. Blg. No. 220 and its implementing standards, rules and regulations. In fact, in *Velasquez v. Nery*, this Court declared that the land is located in Parañaque, surrounded by residential subdivisions and industrial firms near the south diversion road. Since the property was already reclassified as residential by the Metro Manila Commission and the HSRC before the effectivity of Rep. Act No. 6657, there was no need for the private respondent to secure any *post facto* approval thereof from the DAR.

3. REMEDIAL LAW; PROVINCIAL AGRARIAN REFORM ADJUDICATOR (PARAD); JURISDICTION; LANDHOLDING ALREADY CLASSIFIED AS RESIDENTIAL PROPERTY, NOT INCLUDED. — With our finding that the landholding had been classified as residential property since 1981, we agree with the ruling of the Court of Appeals that the PARAD had no jurisdiction over the petitioner's petition for redemption of the property from the respondent.

4. ID.; CIVIL PROCEDURE; APPEAL; FAILURE THERETO RENDERS ASSAILED DECISION FINAL AND

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EXECUTORY AND COULD NO LONGER BE ALTERED. — As correctly found by the CA, upon the petitioner's failure to appeal the decision of the PARAD, the said decision had become final and executory. Since the decision of the PARAD had become final and executory, the same could no longer be altered, much less, reversed by the DARAB. Hence, the DARAB had no appellate jurisdiction over the petitioner's appeal. A substantial modification of a decision of a quasi-judicial agency which had become final and executory is utterly void.

5. **LABOR LAW AND SOCIAL LEGISLATION; DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD (DARAB) RULES; APPEAL; NONE PERFECTED IN CASE AT BAR.** — The PARAD erred in treating the petitioner's "Motion for Clarification and/or Second Motion for Reconsideration" as an appeal of its decision to the DARAB. A motion for clarification and/or second motion for reconsideration is not equivalent to a notice of appeal. The requirements for the perfection of an appeal are provided in Section 5 of the Rules. In this case, no appeal, whether oral or written, was perfected by the petitioner, as provided for in the DARAB Rules.

6. **ID.; ID.; *CERTIORARI* TO THE COURT OF APPEALS; WHERE ADMINISTRATIVE BODY ALLEGEDLY HAD NO APPELLATE JURISDICTION OVER APPEAL.** – What should apply is Section 54 of Rep. Act No. 6657, the provision of which is now embodied in Rule XIV, Section 1 of the DARAB rules, *viz*: ***SECTION 1, Certiorari to the Court of Appeals.*** Any decision, order, resolution, award or ruling of the Board on any agrarian dispute or on any matter pertaining to the application, implementation, enforcement, interpretation of agrarian reform laws or rules and regulations promulgated thereunder, may be brought within fifteen (15) days from receipt of a copy thereof, to the Court of Appeals by *certiorari*. Notwithstanding an appeal to the Court of Appeals, the decision of the Board appealed from shall be immediately executory pursuant to Section 54, Republic Act No. 6657. The petition is one for *certiorari* under Rule 65 of the Rules of Court, as amended, because the respondent alleged therein that the DARAB had no appellate jurisdiction over the petitioner's appeal. The thirty (30)-day period under Section 54 of Rep. Act No. 6657 is extendible, but such extension should not exceed the

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period now provided for in Section 4, Rule 65 of the Rules of Court, as amended, which is 60 days.

APPEARANCES OF COUNSEL

Marcelo C. Amiana for petitioner.

Diosdado P. Peralta and *Emiliano S. Samson* for Remman Ent.

D E C I S I O N

CALLEJO, SR., *J.*:

Before this Court are two (2) consolidated petitions for review on *certiorari* under Rule 45 of the Rules of Court, as amended.

G.R. No. 111387

This is a petition for review of the Decision[1] of the Court of Appeals in CA-G.R. SP No. 30727 dismissing petitioner Justina Advincula-Velasquez' petition for *certiorari* and prohibition; and for the nullification of the *alias* writ of execution issued by the Metropolitan Trial Court of Parañaque, Branch 78,[2] in Civil Case No. 7223 for unlawful detainer.

G.R. No. 127497

This is a petition for the reversal and setting aside of the Decision[3] of the Court of Appeals in CA-G.R. SP No. 40423 granting the private respondent's petition for *certiorari* and prohibition; and for the reinstatement of the Department of Agrarian Reform Adjudication Board (DARAB) decision in DARAB Case No. 228.

The Antecedents

The spouses Jose Velasquez and Justina Velasquez were the agricultural lessees of a riceland with an area of 51,538

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[1] Penned by Associate Justice Pedro A. Ramirez, with Associate Justices Cezar D. Francisco and Corona Ibay-Somera, concurring.

[2] Presided by Judge Zosimo Z. Angeles.

[3] Penned by Associate Justice Maximiano C. Asuncion, with Associate Justices Salome A. Montoya and Godardo A. Jacinto, concurring.

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square meters, located in Sitio Malaking Kahoy, Bo. Ibayo, Parañaque, Metro Manila. The subject property was originally possessed and claimed by Martin Nery. In an action for annulment and reconveyance, the court finally decided in 1972 that the spouses Martin and Leoncia de Leon Nery, Salud Rodriguez, Gertrudes de Leon, and Rosario, Mariano, Pacifico, Onofre, Loloy, Trinidad, Dionisio, Perfecto, Maria Rebecca, Asuncion, Mauro and Lourdes, all surnamed Lorenzo, were co-owners of the property. They later filed with the Court of First Instance (CFI) of Rizal a petition for confirmation of title over the property, which the court in due course granted. Consequently, Transfer Certificate of Title (TCT) No. 64132 was issued to and under their names.[4]

In 1978, the Lorenzo siblings filed an action for partition against their co-owners, Martin and Leoncia Nery, before the CFI of Rizal, Pasay City Branch, which was docketed as Civil Case No. 5313-P. The parties later submitted a compromise agreement where they agreed to sell the said land to the Delta Motors Corporation.

On August 24, 1979, Jose S. Velasquez, in his capacity as agricultural leasehold tenant, filed an action before the then Court of Agrarian Relations, docketed as CAR Case No. 42, 6th Regional District, Branch 1, Quezon City, for the redemption of the subject property under Presidential Decree No. 27. He claimed that he had information that the property had been offered for sale.

On January 25, 1980, Delta Motors Corporation purchased the subject property for ₱2,319,210.00, evidenced by a Deed of Sale. The Register of Deeds of Metro Manila issued TCT No. 20486 on March 4, 1980 in favor of the corporation. By then, the property was already surrounded by residential subdivisions and industrial firms, as well as diversion roads.

Jose S. Velasquez impleaded the Delta Motors Corporation as party respondent in his complaint with the CAR, praying that he be allowed to redeem the property for the amount of only ₱8,800.00 from the said corporation. He anchored his right

[4] *Velasquez v. Nery*, 211 SCRA 28 (1992).

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under Presidential Decree No. 27. On June 16, 1980, the Velasquez Spouses caused the annotation of a notice of *lis pendens* at the dorsal portion of the said title. The CAR, thereafter, rendered judgment against Jose S. Velasquez on October 20, 1981, the decretal portion of which reads:

> Foregoing premises considered, judgment is hereby rendered:
>
> 1. Dismissing the instant motion for lack of interest on plaintiff's part to redeem the land in question at its acquisition price in the amount of ₱2,319,210.00, which we find reasonable;
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> 2. Directing defendants to maintain plaintiff as agricultural lessee in the peaceful possession and enjoyment of the land subject matter of this litigation containing an area of 51,538 square meters, more or less, covered by TCT No. 64132 and to respect the rights accorded to him by law.
>
> 3. Directing the Clerk of Court, this Court (*sic*) to return to plaintiff the amount of ₱600.00 which he consigned with the Court as part of the redemption price for the land in question covered by OR No. 2402912 dated June 13, 1980.
>
> 4. Dismissing all other claims and counterclaims for lack of evidence in support thereof.[5]

The CAR ruled that the property was not covered by the Operation Land Transfer.

Jose Velasquez and the defendants appealed the decision to the then Intermediate Appellate Court (IAC) which rendered a decision[6] affirming that of the CAR, the decretal portion of which reads:

> IN VIEW WHEREOF, the appeals interposed by the plaintiffs and the defendants Martin Nery, Leoncia de Leon Nery, Dionisio, Perfecto, Maria Rebecca, Lourdes, Asuncion and Mauro, all surnamed Lorenzo, are both dismissed for lack of merit. We affirm *in toto* the Decision in CAR Case No. 42.

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[5] *Ibid*.

[6] Penned by Justice Reynato Puno, with Associate Justices Nestor Alampay and Carolina Griño-Aquino (all of whom became Associate Justices of the Supreme Court) concurring.

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The Spouses Velasquez filed their petition for review with the Court, docketed as G.R. No. L-64284, which directed the issuance of a temporary restraining order as prayed for, enjoining the execution of the CAR's decision pending the outcome of the petition.

As it was, the property had been reclassified as low density residential zone as early as 1981 under Comprehensive Zoning Ordinance No. 81-01. The ordinance was prepared by the Metro Manila Commission and the Housing and Land Use Regulatory Board (HLURB), and approved in March 1981 by the then Metropolitan Manila Authority.

In the meantime, the subject property was mortgaged by Delta Motors Corporation to the Philippine National Bank (PNB) as security for its obligation with the latter. The corporation failed to pay its account, which impelled the bank to extrajudicially foreclose the mortgage. On July 30, 1986, the PNB executed a deed of sale with mortgage for ₱11,868,000.00 in favor of respondent Remman Enterprises, Inc. Thus, TCT No. 111759 was later issued in its favor. The notice of *lis pendens* annotated on TCT No. 20486 was carried over and annotated on TCT No. 111759.

The respondent decided to develop the property into a residential subdivision as part of its socialized housing project. The corporation secured a development and building permit on December 9, 1986 from the Human Settlements Regulatory Commission (HSRC),[7] and a preliminary approval and location clearance for the subdivision. It also applied for and secured a permit to develop the property,[8] and was, likewise, granted License to Sell No. 87-01-154 on January 15, 1987.[9] It secured building permits for the construction of residential houses over the property. Thereafter, the corporation commenced its development of the area into a residential subdivision. However, the Velasquez

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[7] Now known as the Housing and Land Use Regulatory Board (HLURB).

[8] B.P. Blg. 220 Development Project.

[9] *Rollo*, pp. 385-387 (G.R. No. 111387).

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Spouses vehemently opposed the development of the property and refused to vacate the same pending the disposition of G.R. No. L-64284.

The respondent filed on January 20, 1987 a Complaint for Unlawful Detainer with the Metropolitan Trial Court (MTC) of Parañaque, Branch 78, against the Velasquez Spouses, docketed as Civil Case No. 7223. It alleged that the subject property had been reclassified and converted from agricultural to a non-agricultural land. However, the corporation's petition for a writ of preliminary injunction was denied by the MTC. The Spouses filed their Answer with a Motion to Dismiss in which they alleged, *inter alia*, that the MTC had no jurisdiction over the case, considering that they were agricultural tenants over an agricultural land. When the case was called for pre-trial conference, only the plaintiff's counsel and its representative appeared, and moved that the Spouses Velasquez be declared in default, and that it be allowed to present its evidence *ex parte*, which the court granted.

On March 12, 1987, the MTC rendered a Decision in favor of the respondent. The decretal portion reads:

> PREMISES CONSIDERED, judgment is hereby rendered in favor of plaintiff and against defendants:
>
> 1. Making the preliminary injunction enjoing (*sic*) defendants to desist from harassing plaintiff's men and issued on January 23, 1987 permanent;
>
> 2. Ordering defendants and all other persons claiming right under them to vacate the subject premises;
>
> 3. Considering the deposit made in Court of the amount of ₱61,250.00 for account of defendants as valid consignation;
>
> 4. Ordering defendants to pay the costs of suit.
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> SO ORDERED.[10]

Aggrieved, the Spouses Velasquez appealed to the Regional Trial Court of Makati, Branch 58, docketed as Civil Case No. 16553, and alleged the following:

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[10] *Id*. at 124.

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1. That the lower court has no jurisdiction to take cognizance, try and decide this case; and

2. That this case is barred by the decision in CAR No. 42-PAR-179 now pending decision in the Supreme Court, entitled *Spouses Jose S. Velasquez, et al., v. Remman Enterprises, Inc.*[11]

Meanwhile, the respondent subdivided the property into 487 subdivision lots covered by a Subdivision Plan dated April 17, 1987. It also requested the Register of Deeds to cancel TCT No. 111759 and to issue 487 new titles, covering each subdivision lot. The Register of Deeds granted the request. TCT No. 121248 to TCT No. 121501 were issued under the name of the respondent corporation for the said lots.

The RTC affirmed[12] the decision of the MTC in Civil Case No. 7223. The decretal portion reads:

WHEREFORE, premises considered, the Court hereby affirms the lower court's decision with the modification that the plaintiff should be awarded the attorney's fees adjudged in the decision.

SO ORDERED.[13]

The RTC ruled that the case before the MTC was only one for unlawful detainer, and as such, was within the exclusive jurisdiction of the court. It also held that the case was not barred by the pendency of G.R. No. L-64284 before this Court, as the sole issue before the MTC was the prior physical possession of the property.

The Spouses Velasquez opted not to file any petition for the review of the decision of the RTC. In due course, the said decision became final and executory. However, the trial court did not issue a writ for the execution of its decision, in light of the temporary restraining order earlier issued by the Court in G.R. No. L-64284.

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[11] *Id*. at 125.

[12] *Id*. at 125-127.

[13] Penned by Judge Zosimo Z. Angeles.

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On July 3, 1992, this Court rendered a Decision in G.R. No. L-64284 dismissing the petition of the Spouses Velasquez, and affirming the decision of the then IAC, which had, in turn, affirmed the decision of the defunct Court of Agrarian Relations. This Court held that the case had become moot and academic with regard to petitioners' claim against Delta Motors Corporation considering that the property was extrajudicially foreclosed by the PNB and had been sold to the respondent. The Court declared, however, that the Spouses may redeem the property from the PNB and its transferees, subject to the 1975 Revised Charter of the said bank.

Relying on the Court's pronouncement, Jose Velasquez, offered to redeem the property in a Letter to the respondent dated October 2, 1992. The respondent, for its part, rejected the offer and moved for the issuance of an *alias* writ of execution with the MTC in Civil Case No. 7223, for the eviction of the Spouses Velasquez. On January 4, 1993, the MTC issued an order granting the motion for a writ of execution and issued an *alias* writ therefor.

The Spouses Velasquez filed motions for reconsideration of the said orders. However, the MTC denied the same in its Orders dated February 19, 1993 and March 30, 1993.

In the meantime, the Decision of the Court in G.R. No. L-64284 became final and executory. The records were remanded to the Provincial Agrarian Reform Adjudicator (PARAD) docketed as PARAD Case No. IV-MM-0054-93. By this time, Jose Velasquez had died. His widow, petitioner Justina Velasquez, filed a motion to deposit/consign the amount of ₱2,319,210.00 as the reasonable redemption price. On January 21, 1993, the PARAD issued an Order, the decretal portion of which reads:

WHEREFORE, premises considered, order is hereby issued:

1. Directing the substitution of the late Jose S. Velasquez by his surviving spouse Justina Advincula-Velasquez as party-Plaintiff;

2. Directing the aforesaid substitute Plaintiff to:

a) refile anew a Petition for redemption impleading the present titled owner Remman Enterprises, Inc.;

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b) upon the filing thereof, consign with this Office thru the DAR Regional Cashier, Pasig, Metro Manila, the amount of Two Million Three Hundred Nineteen Thousand and Two Hundred Ten Pesos (₱2,319,210.00) representing the reasonable redemption price of the property subject of litigation;

3. Directing the Cashier of the DAR Regional Office, Pasig, Metro Manila, to issue an official receipt covering the consigned amount and deposit the same as a Trust Fund/Account with the nearest LBP (Land Bank of the Philippines) Branch;

4. Directing Provincial Sheriff Arturo R. Hilao to personally serve summons upon all the parties-defendants within a period of five (5) days from receipt of the Petition mentioned in Paragraph 2 hereof.[14]

In compliance with the said order, the petitioner filed before the PARAD of Pasig, Metro Manila, a complaint for redemption against the respondent, citing a portion of the Court's Decision in G.R. No. L-64284. Thus:

Because of the extra-judicial foreclosure of the mortgage over the subject property by the Philippine National Bank, the present case has become moot and academic with regard to petitioner's claim against Delta Motors Corporation. *It is now the PNB or its subsequent transferees from whom the petitioners must redeem, if and when PNB decides to sell or alienate the subject property in the future, and of course subject to the provisions of the 1975 Revised Charter of the Philippine National Bank.*[15]

The petitioner also prayed that the MTC be enjoined to cease and desist from enforcing the *alias* writ of execution issued in Civil Case No. 7223, and that after due proceedings, judgment be rendered in her favor, thus:

WHEREFORE, petitioner, by and through counsel, most respectfully prays that reliefs be granted him as follows:

a. Ordering the Metropolitan Trial Court, Branch LXXVIII of Parañaque, M.M., the respondent and all persons claiming rights under it to cease and desist from enforcing the *Alias* Writ of Execution in

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[14] *Rollo*, p. 212 (G.R. No. 111387).

[15] *Id*. at 53. (Italics supplied)

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C.C. No. 7223 of said court for the ejectment of petitioner and the members of her household, her helpers and/or representatives from the parcel of land in question and/or from dispossessing said parties of said property, or disturbing in any manner, howsoever, their peaceful possession and enjoyment thereof with the corresponding order for the purpose to be issued immediately and *ex parte*;

b. Ordering respondent Remman Enterprises, Inc., to surrender to this Honorable Office of the Provincial Agrarian Reform Adjudicator, Pasig, Metro Manila, within ten (10) days from notice, TCTs Nos. 121248 to 121300/T-577, 121301 to 121500/T-578, 121501 to 121700/T-579 and 121701 to 121745/T-580, all of the Parañaque Registry of Deeds, M.M., and all other TCTs emanating from mother title TCT No. 111759 of the same Registry of Deeds, embracing subject property, with the warning that in the event said respondent fails to comply with the aforesaid order within the period stated, the aforesaid TCTs shall be considered void and/or cancelled;

c. Ordering the Register of Deeds of Parañaque, M.M., to cancel all the TCTs aforementioned after the lapse of the ten-day period aforestated and to issue new titles or TCTs in the name of petitioner, embracing subject property, after payment of the required fees and/or charges; and

d. Granting unto petitioner such further reliefs as may be deemed just and equitable under the premises.[16]

The respondent filed a motion to dismiss[17] the complaint, on the ground that the PARAD had no jurisdiction over the case. It alleged, *inter alia*, that the subject property was no longer agricultural, as it had long been reclassified as a low density residential zone under Comprehensive Zoning Ordinance No. 81-01. It averred that, as opined by the Department of Justice, the power to re-categorize land and land use for taxation purposes prior to the effectivity of the agrarian reform laws was lodged exclusively with the HLURB and the Department of Finance, respectively. It was also alleged that the PARAD had no power to issue a writ of injunction against the judiciary. Finally, it

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[16] *Rollo*, pp. 100-101 (G.R. No. 127497).

[17] *Id*. at 143.

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pointed out that the Supreme Court, in G.R. No. L-64284 already nullified the petitioner's right of redemption when it unqualifiedly affirmed the decision of the CAR dismissing the first redemption case for the Velasquez Spouses' lack of interest to redeem the land in question at its acquisition price of ₱2,319,210.00 from the Delta Motors Corporation.

While her petition with the PARAD was pending, the petitioner filed a petition for *certiorari* and prohibition with the Court of Appeals for the nullification of the writ of execution issued by the MTC in Civil Case No. 7223, with a prayer for a restraining order and/or preliminary injunction, docketed as CA-G.R. SP No. 30727.[18] The petitioners alleged that the MTC committed a grave abuse of discretion in issuing an *alias* writ of execution despite the decision of the Court in G.R. No. L-64284 which granted her husband the right to redeem the property and to remain in possession thereof as an agricultural lessee. She prayed that judgment be rendered in her favor, as follows:

a. That a temporary restraining order be issued immediately enjoining (*sic*) respondents and all persons acting for and in their behalf to desist from enforcing the *Alias* Writ of Execution, dated 04 January 1993, as reiterated in public respondent's orders, dated 19 February 1993 and 30 March 1993, respectively, for the ejectment of petitioner and the immediate members of her farm household from the property in question, issued by public respondent in Civil Case No. 7223 and/or a writ of preliminary injunction for the same purpose and with the same effect for a period until further orders of this Honorable Court;

b. That after due process, judgment be rendered annulling the orders of public respondent, dated 04 January 1993, 19 February 1993 and 30 March 1993, respectively, and permanently prohibiting respondents and all persons acting for and in their behalf from enforcing the aforementioned orders of public respondent and/or issuing further orders of like effect, or otherwise from evicting petitioner and the immediate members of her farm household from the property in question; and

[18] CA *Rollo*, pp. 1-68.

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c. That such further reliefs as may be just and equitable under the premises be, likewise, granted to petitioner.[19]

The petitioner justified her filing the petition with the CA instead of the RTC as follows:

b. That this petition may be filed before, and/or given cognizance by, this Honorable Court as expressly provided in paragraph 14 of the Interim or Transitional Rules and Guidelines which reads:

"14. Exercise of original jurisdiction. — The Intermediate Appellate Court (now Court of Appeals) may entertain petitions for *mandamus*, prohibition, *certiorari, habeas corpus, quo warranto*, and issue auxiliary writs or processes, whether or not in aid of its appellate jurisdiction."[20]

On May 20, 1993, the Court of Appeals rendered its Decision[21] in CA-G.R. SP No. 30727. It dismissed the petition on the ground that in filing her petition with the CA, the petitioner violated the principle of hierarchy of courts. The CA ruled, however, that the dismissal of the petition was without prejudice to the filing of a similar petition in the proper RTC, opining, thus:

Besides, it is best that the matter be litigated in the Regional Trial Court before which evidence may be adduced by the parties as to the alleged change in their condition and of the environment in the parcel of land in question from agricultural to residential.[22]

The petitioner, thereafter, filed her petition for review with this Court, *docketed as G.R. No. 111387*, for the reversal of the decision of the CA and for the issuance of a temporary restraining order, which this Court granted in its Resolution[23] dated September 6, 1993.

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[19] *Id*. at 10-11.

[20] *Id*. at 9.

[21] *Supra* at note 1.

[22] *Rollo*, p. 194 (G.R. No. 111387).

[23] *Id*. at 225.

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On June 1, 1993, the PARAD issued an Order dismissing the petition, ruling that it had no jurisdiction over the same. It also ruled that it had, likewise, no jurisdiction over the subject property, as the latter had been reclassified as a residential zone even before June 15, 1988. The PARAD took judicial notice that Parañaque, the place where the property is located, is part of Metro Manila, whose respective Comprehensive Development Plan and its Accompanying Zoning Ordinance No. 81-01 was issued in conformity with P.D. No. 933, Letter of Instructions No. 729 and Executive Order No. 648 as set out in the Memorandum of Agreement between the Metro Manila Commission (Metro Manila Authority) and the HSRC. It also ruled that the petition was not barred by the judgment of the Court in G.R. No. L-64284. According to the PARAD, the Court's statement therein, that the property may be redeemed from the transferees of the PNB, could not be relied upon by the petitioner as it was merely an *obiter dictum*. Hence, the PARAD directed the MTC to issue a writ of execution. The decretal portion of the order reads:

> WHEREFORE, premises considered, order is hereby issued:
>
> 1. Granting the subject Motion and dismissing the instant Petition;
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> 2. *Motu proprio* directing the immediate issuance of a writ of execution to enforce the final and executory judgment rendered by the Supreme Court in G.R. No. L-64284 (*Spouses Jose S. Velasquez and Justina Advincula Velasquez v. Spouses Martin Nery, et. al.*), DISMISSING the petition for review on *certiorari* and AFFIRMING the appealed decision of the then Intermediate Appellate Court which affirmed the decision of the defunct Court of Agrarian Relations, conformably to Section 2, Rule XII of the DARAB Revised Rules of Procedure.
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> SO ORDERED.[24]

The petitioner was served a copy of the order on June 11, 1993 and filed a motion for reconsideration of the said order, contending that the conversion of the property into a non-

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[24] Penned by Provincial Adjudicator Fe Arche-Manalang, *Rollo*, p. 223 (G.R. No. 111387).

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agricultural property was made without the approval of the DAR as mandated by Rep. Act No. 3894, and as further amended by Rep. Act No. 6389. The PARAD issued an Order dated July 13, 1993, denying the said motion, on the ground that no new arguments were presented to warrant the reconsideration thereof. The petitioner received the order on July 28, 1993.

The petitioner filed a motion for clarification and/or second motion for reconsideration[25] dated August 2, 1993. The PARAD ruled that the said motion was a prohibited pleading under Section 16, Rule VIII of the DARAB Revised Rules of Procedure, and considered the same as a *notice of appeal*. It issued an Order dated January 5, 1994 directing that the case be forwarded to the DARAB. On January 18, 1994, the petitioner remitted her appeal fee of ₱500.00. The appeal was docketed as DARAB Case No. 2288.

The respondent sought the dismissal of the petition contending, *inter alia*, that the decision of the PARAD had become executory on account of the failure of the appellant (herein petitioner) to appeal on time. On February 1, 1996, the DARAB rendered a Decision[26] in favor of the petitioner, reversing and setting aside the assailed orders of the PARAD. The decretal portion reads:

> WHEREFORE, premises considered, the appealed order, dated June 1, 1993, together with the order, dated July 13, 1993, are hereby SET ASIDE and accordingly, Defendant-Appellee's Motion to Dismiss, dated March 29, 1992 (*sic*), is denied for lack of merit and a new decision is rendered as follows:
>
> 1. Declaring Plaintiff-Appellant's appeal to have been validly perfected;
>
> 2. Declaring Plaintiff-Appellant a *bona fide* agricultural lessee and as such she is entitled to her security of tenure and, by reason thereof, Defendant-Appellee is hereby ordered to reinstate and maintain said Plaintiff-Appellant to her peaceful possession and cultivation on the subject farmholding.

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[25] *Rollo*, p. 215 (G.R. No. 127497).

[26] *Id*. at 270.

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3. Declaring Plaintiff-Appellant to have validly exercised her right of redemption and the Register of Deeds of Parañaque, Metro Manila is hereby ordered to cancel the titles issued to Defendant-Appellee and in lieu thereof, the corresponding certificate of title be issued to said Plaintiff-Appellant after acceptance of the redemption price by Defendant-Appellee who is hereby ordered to accept the same; and

4. Declaring that there was no valid conversion of the subject farmholding into residential purposes pursuant to and in compliance with the existing applicable laws and implementing guidelines therefore.

SO ORDERED.[27]

The DARAB ruled that it was the Department of Agrarian Reform (DAR), not the HLURB and the Department of Finance, which had the power and authority to approve or disapprove any application for the conversion of tenanted private agricultural land into a non-agricultural land. The DARAB also held that the only power of the HLURB was to promulgate zoning and other land use control standards and guidelines, which govern land use plans and zoning ordinances of local governments, and that the respondent had not secured any prior authority from the DAR to convert the subject property from agricultural to non-agricultural. The DARAB noted that in the Decision of the Court in G.R. No. L-64284, the petitioner was granted the right to redeem the property. The DARAB further ruled that the petitioner interposed her appeal to the DARAB within the reglementary period therefor.

To stave off the immediate execution of the decision of the DARAB, the respondent filed on May 22, 1996, a petition with the Court of Appeals under Rule 45 and Rule 65 of the Rules of Court, docketed as CA-G.R. SP No. 40423, for the reversal of the decision of the DARAB. The respondent, likewise, prayed for the issuance of a writ of preliminary injunction to enjoin the implementation of the writ of execution issued by the DARAB. The Court of Appeals considered the petition as filed under

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[27] *Id*. at 293-294.

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Rule 65 of the Rules of Court and granted the plea for a writ of preliminary injunction.

The court synthesized the issues for resolution as follows: (a) whether the subject land was still agricultural in nature; (b) if so, whether petitioner Justina Velasquez was entitled to redeem the subject property at the offered amount of ₱2,319,210.00 by virtue of the decision of the Court in G.R. No. L-64284; and, (c) whether the DARAB had appellate jurisdiction over the PARAD Order of June 1, 1993, based on the PARAD's treatment of the motion for clarification and/or second motion for reconsideration as a notice of appeal.

The Ruling of the Court of Appeals

The CA rendered judgment in favor of the respondent and reversed the decision of the DARAB.

Anent the first issue, the appellate court ruled that under Executive Order No. 129-A, Rep. Act No. 2264, B.P. Blg. 332 and LOI No. 729, the HLURB had the authority to convert agricultural property to non-agricultural. It also relied on the Decision of the Court in *Natalia Realty, Inc., et al. v. Department of Agrarian Reform*,[28] and found that respondent Remman Enterprises, Inc. and Natalia Realty, Inc. were similarly situated:

> The Court finds Remman and Natalia Realty, Inc. to be *similarly situated*. The properties involved are devoted for human settlements, and were reclassified or converted by the appropriate government housing and land use agency (HSRC) before June 15, 1988.
>
> Considering the doctrinal value of *Natalia*, DARAB, as a quasi-judicial entity, was duty-bound to apply it in this case after its attention had been called by Remman (Annex "K"). The Supreme Court's pronouncements command respect and obedience being "law" by their own rights because they interpret what laws say or mean (*Philippine Veterans Affairs Office v. Segundo*, 164 SCRA 365). Despite Natalia's determinative finding in a similar issue, DARAB's conclusion that conversion is exclusively vested in the DAR even

[28] 225 SCRA 278 (1993).

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before June 15, 1988 (Annex "L", p. 8) mocks if not defies the law and the Supreme Court.[29]

On the second issue, the appellate court ruled that due to the conversion of the subject property from agricultural to residential, the petitioner could no longer claim the right of redemption under Section 10 of Rep. Act No. 3844, as amended, in relation to Rep. Act No. 6389. According to the CA, while the Court's decision in *Velasquez v. Nery* (G.R. No. L-64284) recognized the petitioner's right to redeem the property, it could only be given effect if the subject property had retained its classification as agricultural. The CA further ruled that the motion for clarification/ second motion for reconsideration filed by the petitioner with the PARAD was a prohibited pleading under Section 12, Rule VIII of the DARAB Revised Rules of Procedure; hence, the PARAD erred when it considered the said motion as a notice of appeal. Furthermore, the DARAB's rules of procedure require parties to file a notice of appeal. Considering that the petitioner failed to do so, the assailed order of the PARAD had attained finality. The CA emphasized that the perfection of an appeal in the manner and within the period prescribed by law is not only a mandatory requirement, but also jurisdictional, and that the failure to perfect an appeal as required by the Rules had the effect of rendering the judgment final and executory.

Thus, the Court of Appeals restored the PARAD Order dated June 1, 1993, with modification:

> WHEREFORE, premises considered, the petition is given DUE COURSE and the same is GRANTED. Accordingly, the assailed DARAB Decision and Resolution (Annexes "L" and "N", Petition) are set aside. The PARAD Order of 1 June 1993 (Annex "D") is restored and declaring the same final and unappealable but expunging therefrom the *motu propio* order of execution.
>
> No pronouncements as to costs.
>
> SO ORDERED.[30]

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[29] CA *Rollo*, pp. 461-462 (CA-G.R. SP No. 40423).

[30] *Supra* at note 3; *Id*. at 464.

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Aggrieved, the petitioner filed with this Court a petition for review under Rule 45 of the Rules of Court as amended, docketed as *G.R. No. 127497*.

In a Resolution dated April 28, 1997, the Court resolved to consolidate the two petitions.

The Ruling of the Court

The issues for resolution are procedural and substantive, *viz*:

1) Whether the CA erred in dismissing the petition for *certiorari* and prohibition in CA-G.R. SP No. 30727;

2) Whether the reclassification of the landholding, from agricultural to residential is valid;

3) Whether the petitioner is entitled to redeem the property from the respondent Remman Enterprise, Inc.;

4) Whether the PARAD had jurisdiction over the complaint for redemption filed by the petitioner;

5) Whether the appeal of the petitioner from the June 1, 1993 Order of the PARAD dismissing the complaint for redemption of the petitioner and the July 13, 1993 Order denying the motion for reconsideration of the June 1, 1993 Order was timely;

6) Whether the DARAB had appellate jurisdiction over the appeal of the petitioner from the assailed order of the PARAD;

7) Whether the petition of the respondent in the Court of Appeals in CA-G.R. SP No. 40423 was proper and timely.

On the first issue, the petitioner avers that under B.P. Blg. 129, the Court of Appeals has jurisdiction over petitions for *certiorari* and prohibition, whether or not in aid of its appellate jurisdiction. She posits that the CA has no other alternative but to exercise its jurisdiction over the petition, prescinding from the doctrine of hierarchy of courts. She asserts that the doctrine of hierarchy of courts admits of exceptions for special and important reasons. According to the petitioner, she opted to file her petition for *certiorari* and prohibition in the CA for the

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nullification of the assailed orders of the MTC instead of filing the same in the RTC. Thus:

> a) The decision of respondent court ejecting petitioner-appellant from the property in question has been previously affirmed by the very Regional Trial Court of Makati, Metro Manila (Annex 2 of Annex "E" hereof) in which the petition for *certiorari* and prohibition is to be filed as ruled by the Honorable Court of Appeals; and
>
> b) The ejectment of petitioner-appellant from the property in question has been finally rejected or disauthorized by this Honorable Court (G.R. No. [L-]64284).[31]

The petitioner posits that since the RTC already rendered its decision in Civil Case No. 16553, the court could not be expected to act contrary thereto; hence, the filing of the petition with the same court would be an exercise in futility. According to the petitioner, there was no need to adduce evidence that her landholding had been reclassified into residential property, since the character of the landholding as agricultural had been passed upon and upheld by this Court in *Velasquez v. Nery* (G.R. No. L-64284).

We are not in full accord with the petitioner. We agree that under B.P. Blg. 129, the RTC and the Court of Appeals, in the exercise of its original jurisdiction or in aid of its appellate jurisdiction, have concurrent jurisdiction to issue writs of *certiorari* and prohibition. However, in *People v. Cuaresma*,[32] we emphasized that this concurrence of jurisdiction is not to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. We added that:

> There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") court should be filed with the

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[31] *Rollo*, p. 15 (G.R. No. 111387).

[32] 172 SCRA 415 (1989).

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Regional Trial Court, and those against the latter, with the Court of Appeals.[33]

In *Santiago v. Vasquez,* [34] we took particular note that:

> . . . [T]he propensity of litigants and lawyers to disregard the hierarchy of courts must be put to a halt, not only because of the imposition upon the precious time of this Court, but also because of the inevitable and resultant delay, intended or otherwise, in the adjudication of the case which often has to be remanded or referred to the lower court, the proper forum under the rules of procedure, or as better equipped to resolve the issues since this Court is not a trier of facts . . .[35]

We agree that the compliance with the hierarchy of courts may be relaxed for special and important reasons, clearly and specifically set out in the petition. However, no such reasons were set forth in the petition in CA-G.R. SP No. 30727 to justify the petitioner's filing thereof in the Court of Appeals instead of the RTC. That the latter court had decided her appeal in Civil Case No. 16553 and affirmed the decision of the MTC in Civil Case No. 7223 which, in turn, ordered the eviction of the petitioner from the property, is not a justification to bypass the RTC and file the petition for *certiorari* in the Court of Appeals.

First. The petitioner's fear that the RTC would prejudge her petition simply because Civil Case No. 16553 was decided against her is merely speculative. She assumed that her petition for *certiorari* would be raffled to the same branch of the RTC which decided Civil Case No. 16553, Branch 58. It bears stressing that her petition would be raffled to a different branch of the court. Even assuming that the petition would be raffled to Branch 58, this would not bar the petitioner from moving that the case be re-raffled, on the ground that the civil case being executed was decided by the same court.

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[33] *Ibid.*

[34] 217 SCRA 633 (1993), cited in *Tano v. Socrates*, 278 SCRA 154 (1997).

[35] *Ibid.*

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Second. The issue raised by the petitioner in her petition for *certiorari* is whether the MTC acted with grave abuse of discretion amounting to excess or lack of jurisdiction in ordering the enforcement of its decision. She alleged that the court erred in ordering her eviction from the property despite the decision of the Court of Agrarian Relations, which was affirmed by the Court of Appeals and this Court in *Velasquez v. Nery* (G.R. No. L-64284) and the pendency of her petition in the PARAD. According to the petitioner, such issue may well be resolved by the RTC in the exercise of its appellate jurisdiction over the MTC after hearing the petition.

On the second issue, the petitioner avers that this Court had already declared in its decision in G.R. No. L-64284[36] that the subject property is agricultural. The decision of this Court, the petitioner asserts, is conclusive on the PARAD and the Court of Appeals. Thus, any conversion of agricultural property to residential property without the approval of the DAR is void. She avers that even the respondent saw the need for a DAR approval considering that it requested the DAR on December 21, 1988 to approve the conversion of the property. The petitioner insists that the CA misapplied the DOJ opinion and the ruling of this Court in *Natalia Realty, Inc., et al. v. DAR, et al.*,[37] in light of the ruling of this Court in *Velasquez v. Nery* (G.R. No. L-64284). The petitioner argues that despite the conversion of the property to residential land, her right to redeem the property from the respondent remains, as provided for in Section 12 of Republic Act No. 6389, and the ruling of this Court in *Velasquez v. Nery* (G.R. No. L-64284).

We are not in full accord with the petitioner. The records show that as early as 1981, the landholding was reclassified as a low density zone under Metro Manila Zoning Ordinance No. 81-01, Series of 1981[38] before Rep. Act No. 6657 took effect on June 15, 1998. The HSRC issued a preliminary approval

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[36] *Supra*.

[37] 225 SCRA 278 (1993).

[38] *Rollo*, pp. 151-165 (G.R. No. 127497).

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and location clearance, as well as a development permit on December 2, 1986 to the respondent.[39] On January 15, 1987, the HSRC, likewise, issued a license in favor of the respondent to sell the 1,086 subdivision lots.[40] In the said permit and license, the property was classified as a second class housing project. The Commission also declared therein that such housing project conformed to B.P. Blg. No. 220 and its implementing standards, rules and regulations. In fact, in *Velasquez v. Nery*,[41] this Court declared that the land is located in Parañaque, surrounded by residential subdivisions and industrial firms near the south diversion road.[42] Since the property was already reclassified as residential by the Metro Manila Commission and the HSRC before the effectivity of Rep. Act No. 6657, there was no need for the private respondent to secure any *post facto* approval thereof from the DAR.

In *Natalia Realty, Inc. and Estate Developers and Investors Corp. v. Department of Agrarian Reform, et al.*,[43] we held, thus:

> We now determine whether such lands are covered by the CARL. Section 4 of R.A. 6657 provides that CARL shall "cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands." As to what constitutes "agricultural lands," it is referred to as "land devoted to agricultural activity as defined in this Act and *not classified as mineral, forest, residential, commercial or industrial land.* The deliberations of the Constitutional Commission confirm this limitation. "Agricultural lands" are only those lands which are "arable and suitable agricultural lands" and "*do not include commercial, industrial and residential lands.*"
>
> Based on the foregoing, it is clear that the undeveloped portions of the Antipolo Hills Subdivision 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 their inclusion

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[39] *Id.* at 161.

[40] *Id.* at 164.

[41] *Supra.*

[42] *Id.* at 33.

[43] *Supra.* (Italics supplied)

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in the Lungsod Silangan Reservation. Even today, the areas in question continued to be developed as a low-cost housing subdivision, albeit at a snail's pace. This can readily be gleaned from the fact that SAMBA members even instituted an action to restrain petitioners from continuing with such development. The enormity of the resources needed for developing a subdivision may have delayed its completion but this does not detract from the fact that these lands are still residential lands and outside the ambit of the CARL.

Indeed, lands not devoted to agricultural activity are outside the coverage of CARL. *These include lands previously converted to non-agricultural uses prior to the effectivity of CARL by government agencies other than respondent DAR.* In its Revised Rules and Regulations Governing Conversion of Private Agricultural Lands to Non-Agricultural Uses, DAR itself defined "agricultural land" thus —

> "x x x *Agricultural land refers* to those devoted to agricultural activity as defined in R.A. 6657 and not classified as mineral or forest by the Department of Environment and Natural Resources (DENR) and its predecessor agencies, **and *not classified in town plans and zoning ordinances as approved by the Housing and Land Use Regulatory Board (HLURB) and its preceding competent authorities prior to 15 June 1988 for residential,* commercial or industrial use.***"**

Our ruling in the *Natalia* case was reiterated in *National Housing Authority v. Allarde.*[44]

The Court of Appeals' reliance on DOJ Opinion No. 44, Series of 1990, is in order. In the said opinion, the Secretary of Justice declared, *viz*:

> Based on the foregoing premises, we reiterate the view that with respect to conversions of agricultural lands covered by R.A. No. 6657 to non-agricultural uses, the authority of DAR to approve such conversions may be exercised from the date of the law's effectivity on June 15, 1988. This conclusion is based on a liberal interpretation of R.A. No. 6657 in the light of DAR's mandate and the extensive coverage of the agrarian reform program.[45]

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[44] 318 SCRA 22 (1999).

[45] CA *Rollo*, p. 142 (CA-G.R. SP No. 30727).

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Following the DOJ opinion, the DAR issued Administrative Order No. 6, Series of 1994, stating that lands already classified as non-agricultural before the enactment of Rep. Act No. 6657 no longer needed any conversion clearance:

I. *Prefatory Statement*

In order to streamline the issuance of exemption clearances, based on DOJ Opinion No. 44, the following guidelines are being issued for the guidance of the DAR and the public in general.

II. *Legal Basis*

Sec. 3(c) of RA 6657 states that agricultural lands refers to the land devoted to agricultural activity as defined in this act and not classified as mineral, forest, residential, commercial or industrial land.

Department of Justice Opinion No. 44, series of 1990 has ruled that, with respect to the conversion of agricultural lands covered by RA No. 6657 to non-agricultural uses, the authority of DAR to approve such conversion may be exercised from the date of its effectivity, on June 15, 1988. Thus, all lands that are already classified as commercial, industrial, or residential before 15 June 1988 no longer need any conversion clearance.

Contrary to the petitioner's contention, the ruling of this Court in the *Natalia* case is not confined solely to agricultural lands located within townsite reservations, but applies also to lands converted to non-agricultural prior to the effectivity of the CARL, where such conversion was made by government agencies other than the DAR, including the HLURB and its predecessor, namely, the HSRC.[46]

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[46] *Section 5. Powers and Duties of the Commission.*

a) Promulgate zoning and other land use control standards and guidelines which shall govern land use plans and zoning ordinances of local governments; the zoning components of civil works and infrastructure projects of the national, regional and local governments; subdivision or estate development projects of both the public and private sectors; and urban renewal plans, programs and projects; Provided that the zoning and other land use control standards and guidelines to be promulgated hereunder shall respect the classification of public lands for forest purposes is certified by the Ministry of Natural Resources.

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On the rest of the issues, we agree with the Court's pronouncement in *Velasquez v. Nery*, that the petitioner and her husband, Jose Velasquez, were agricultural lessees of the landholding. However, we do not agree with the petitioner's contention that such pronouncement is conclusive of the nature of the property as agricultural. It bears stressing that the complaint of the Velasquez Spouses for the redemption of the property from the Delta Motor Corporation was filed on August 24, 1979 in the Court of Agrarian Relations, *before the Metro Manila Commission approved Zoning Ordinance No. 81-01 which reclassified properties, including the subject landholding, as residential.* The parties never raised this issue in the CAR or in the Intermediate Appellate Court, the only issue therein being whether the Velasquez Spouses had the right to redeem the property under P.D. No. 27 or Section 12 of Rep. Act No. 6389 and, if so, the reasonable price therefor. The CAR dismissed the complaint of the Spouses on its finding that they had waived their right to redeem the property. The IAC affirmed the dismissal. This Court, likewise, affirmed the decision of the IAC. To repeat, this Court even declared in

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b) Review, evaluate and approve or disapprove comprehensive land use development plans and zoning ordinances of local governments; and the zoning components of civil works and infrastructure projects of national, regional and local governments, subdivision, condominiums or estate development projects including industrial estates, of both the public and private sectors and urban renewal plans, programs and projects; Provided, that the Land Use Development Plans and Zoning Ordinances of Local Governments herein subject to review, evaluation and approval of the Commission shall respect the classification of public lands for forest purposes as certified by the Ministry of Natural Resources; Provided, further that the classification of specific alienable and disposable lands by the Bureau of Lands shall be in accordance with its own classification scheme subject to the condition that the classification of these lands may be subject to the condition that the classification of these lands may be subsequently changed by the local governments in accordance with their particular zoning ordinances which may be promulgated later.

c) Issue rules and regulations to enforce the land use policies and human settlements as provided for in Presidential Decrees Nos. 339, 815, 933, 957, 1216, 1344, 1396, 1517, Letter of Instructions Nos. 713, 729, 833, 935, and other related laws regulating the use of land including the regulatory aspects of the Urban Land Reform Act and all decrees relating to regulation of the value of land and improvements, and their rental.

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said case that "the land is located in Parañaque, surrounded by residential subdivisions and industrial firms near the south diversion road." In effect, the landholding is residential, although the Court did not so declare expressly.

In affirming the ruling of the PARAD and rejecting the petitioner's claim that she had the right to redeem the landholding based on the statement of this Court in *Velasquez v. Nery*, the Court of Appeals ruled, *viz*:

> A close analysis of Nery discloses that the issue determined and adjudged therein is not so much the right of the Velasquez spouses to redeem the subject land as *the reasonableness of the redemption price* tendered by them. The Supreme Court found, affirming the decision of the defunct CAR and of this Court (then IAC), that the reasonable redemption price for the subject land was ₱2,319,210.00, Delta Motor Corporation's cost of acquisition, as borne out by the evidence adduced therein.
>
> The statement relied upon in *Nery* is an *obiter dictum*. It was merely a suggested course of action. It was an opinion of the court upon a question which was not necessary to the decision of the case before it (*Auyong Hian v. Court of Tax Appeals*, 59 SCRA 120). It was an opinion uttered by the way, not upon the point or question pending, as if turning aside from the main topic of the case to collateral subjects, or it does not embody its determination and is made without argument or full consideration of the point, and is not professed deliberate determination of the judge himself (*People v. Macadaeg, et al.*, 91 Phil. 410). If deleted from the judgment, the rationale of the Nery decision is neither affected not (*sic*) altered since from whom redemption may be subsequently made is settled by whosoever owns the property at the time the right is exercised. Hence, no right was produced thereby nor any derived therefrom, quoted as it were out of context.[47]

We agree with the Court of Appeals. The statement of this Court in *Velasquez v. Nery* relied upon by the petitioner reads:

> Because of the extra-judicial foreclosure of the mortgage over the subject property by the Philippine National Bank, the present case has become moot and academic with regard to petitioner's claim against

[47] *Rollo*, p. 456 (G.R. No. 127497).

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Delta Motor Corporation. It is now the PNB or its subsequent transferees from whom the petitioners must redeem, if and when PNB decides to sell or alienate the subject property in the future, and of course, subject to the provisions of the 1975 Revised Charter of the Philippine National Bank.[48]

In *Quiño v. Court of Appeals*,[49] we held that the aforequoted statement of this Court is, indeed, an *obiter dictum*:

. . . By way of *obiter dictum* we stated —

Because of the extra-judicial foreclosure of the mortgage over the subject property by the Philippine National Bank, the present case has become moot and academic with regard to petitioners' claim against Delta Motor Corporation. It is now the PNB or its subsequent transferees from whom the petitioners must redeem, if and when PNB decides to sell or alienate the subject property in the future x x x[50]

With our finding that the landholding had been classified as residential property since 1981, we agree with the ruling of the Court of Appeals that the PARAD had no jurisdiction over the petitioner's petition for redemption of the property from the respondent. As correctly found by the CA, upon the petitioner's failure to appeal the decision of the PARAD, the said decision had become final and executory:

Petitioner assails herein the validity of DARAB's decision on the appeal of Velasquez from PARAD's order (Annex "D") and resolution (Annex "G"), contending that PARAD's Order treating the Velasquez Motion for Clarification and/or for Second Motion for Reconsideration as a notice of appeal (Annex "I") did not have any legal basis under the DARAB rules.

The revised DARAB rules states that:

x x x appeal may be taken from an order, resolution or decision of the Adjudicator to the Board by either of the parties or both, orally or in writing, within a period of fifteen (15) days from

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[48] *Supra*.

[49] 291 SCRA 249 (1998).

[50] *Id*. at 258.

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receipt of the order, resolution of the decision appealed from, and serving a copy thereof on the adverse party, if the appeal is in writing (Sec. 1, Rule XIII)

No oral or written notice of appeal was filed by Velasquez. The Court subscribes to Remman's submission that the omission is a fatal defect that deprived DARAB of the power to assume appellate jurisdiction over the appeal of Velasquez.

The filing of a notice of appeal is no idle ceremony. Its office is to elevate the case on appeal to DARAB without which appellate jurisdiction is not conferred. Neither PARAD nor DARAB is permitted to enlarge the constricted manner by which an appeal is perfected. Liberal construction of DARAB rules is unavailable to produce the effect of a perfected appeal.

Perfection of an appeal in the manner and within the period prescribed by law is not only *mandatory* but also *jurisdictional*, and failure to perfect an appeal as required by the Rules had the effect of rendering the judgment final and executory. This doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice (*Filcon Manufacturing Corp. v. NLRC*, 199 SCRA 814). And nothing is more settled in the law than that when a final judgment becomes executory, it thereby becomes immutable and unalterable (*Nuñal v. Court of Appeals*, 221 SCRA 26; *Garbo v. Court of Appeals*, 226 SCRA 250). Failure to meet the requirements of an appeal deprives the appellate court of jurisdiction to entertain any appeal. This principle applies to judgments of courts and of *quasi-judicial agencies* (*Vega v. Workmen's Compensation Commission*, 89 SCRA 140).

PARAD's error in treating the Velasquez' second motion for reconsideration as (*sic*) a notice of appeal became inexcusable by its awareness that the motion was a *prohibited motion* under Section 12, Rule VIII, DARAB Revised Rules of Procedure. As such, the motion had no legal standing as a substitute notice of appeal. Hence, it did not serve to interrupt the period of appeal.

PARAD's Order (Annex "D") then *ipso facto* became final and unappealable without the requisite notice of appeal filed within the reglementary period. It is a settled that a judgment becomes final and executory by *operation of law* without the need of intervention by anyone (*Cachola, Sr. v. Court of Appeals*, 208 SCRA 429; *Paramount Insurance v. Japson*, 211 SCRA 897; *Adez Realty, Inc.*

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v. Court of Appeals, 212 SCRA 623; *Manning International Corp. v. NLRC*, G.R. No. 83018, Mar. 13, 1991).[51]

Since the decision of the PARAD had become final and executory, the same could no longer be altered, much less, reversed by the DARAB. Hence, the DARAB had no appellate jurisdiction over the petitioner's appeal.[52] A substantial modification of a decision of a quasi-judicial agency which had become final and executory is utterly void.[53]

The PARAD erred in treating the petitioner's "Motion for Clarification and/or Second Motion for Reconsideration" as an appeal of its decision to the DARAB. A motion for clarification and/or second motion for reconsideration is not equivalent to a notice of appeal.

Rule XIII, Section 1 of the 1994 DARAB Rules provides as follows:

SECTION 1. Appeal to the Board. — a) An appeal may be taken from an order, resolution or decision of the Adjudicator to the Board by either of the parties or both, orally or in writing, within a period of fifteen (15) days from the receipt of the order, resolution or decision appealed from, and serving a copy thereof on the adverse party, if the appeal is in writing.

b) An oral appeal shall be reduced into writing by the Adjudicator to be signed by the appellant, and a copy thereof shall be served upon the adverse party within ten (10) days from the taking of the oral appeal.

The requirements for the perfection of an appeal are provided in Section 5 of the Rules:

SECTION 5. Requisites and Perfection of the Appeal. — a) The Notice of Appeal shall be filed within the reglementary period as provided for in Section 1 of this Rule. It shall state the date when the appellant received the order or judgment appealed from and the proof of service of the notice to the adverse party; and

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[51] *Rollo*, pp. 492-493 (G.R. No. 111387).

[52] *Republic of the Philippines v. Court of Appeals*, 313 SCRA 376 (1999).

[53] *Fortich v. Corona*, 289 SCRA 624 (1998).

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b) An appeal fee of Five Hundred Pesos (₱500.00) shall be paid by the appellant within the reglementary period to the DAR Cashier where the Office of the Adjudicator is situated. A pauper litigant shall, however, be exempt from the payment of the appeal fee.

Non-compliance with the above-mentioned requisites shall be a ground for the dismissal of the appeal.

In this case, no appeal, whether oral or written, was perfected by the petitioner, as provided for in the DARAB Rules.

The petitioner asserts that the petition of the respondent in CA-G.R. SP No. 40423 was filed beyond the period therefor. She avers that the respondent was granted an extension of only until May 8, 1996, but instead of filing its petition for review on the said date, it filed, on May 7, 1996, another motion for extension of fifteen days within which to file its petition, or until May 22, 1996. Without such motion for extension being granted, the respondent filed its petition on May 22, 1996, docketed as CA-G.R. SP No. 40423. The petitioner argues that the petition was filed out of time because Section 60 of Rep. Act No. 6657 allows only one extension of fifteen days.

In its comment on the petition, the respondent avers that the Court of Appeals admitted its petition to obviate any question of the timeliness of its filing. It notes that the CA resolved to grant the Manifestation and Motion filed on May 7, 1996. The private respondent further avers that under Section 4 of SC Revised Administrative Circular No. 1-95 (Revised Circular No. 1-91), a party may be granted two extensions, not to exceed thirty days, to file a petition.

We do not agree with the contention of the petitioner that Section 60 of Rep. Act No. 6657 applies in this case. Neither do we agree with the respondent's contention that SC Revised Administrative Circular No. 1-95 is applicable.

Section 60 of Republic Act No. 6657 reads:

SECTION 60. *Appeals.* — An appeal may be taken from the decision of the Special Agrarian Courts by filing a petition for review with the Court of Appeals within fifteen (15) days from receipt of notice of the decision; otherwise, the decision shall become final.

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The provision refers to an appeal from the decisions of the Special Agrarian Courts.

What should apply is Section 54 of Rep. Act No. 6657, which reads:

SECTION 54. *Certiorari*. — Any decision, order, award or ruling of the DAR on any agrarian dispute or on any matter pertaining to the application, implementation, enforcement or interpretation of this Act and other pertinent laws on agrarian reform may be brought to the Court of Appeals by *certiorari* except as otherwise provided in this Act within fifteen (15) days from receipt of a copy thereof.

The findings of fact of the DAR shall be final and conclusive if based on substantial evidence.

The provision is now embodied in Rule XIV, Section 1 of the DARAB rules, *viz*:

SECTION 1. Certiorari to the Court of Appeals. — Any decision, order, resolution, award or ruling of the Board on any agrarian dispute or on any matter pertaining to the application, implementation, enforcement, interpretation of agrarian reform laws or rules and regulations promulgated thereunder, may be brought within fifteen (15) days from receipt of a copy thereof, to the Court of Appeals by *certiorari*. Notwithstanding an appeal to the Court of Appeals, the decision of the Board appealed from shall be immediately executory pursuant to Section 54, Republic Act No. 6657.

The petition is one for *certiorari* under Rule 65 of the Rules of Court, as amended, because the respondent alleged therein that the DARAB had no appellate jurisdiction over the petitioner's appeal.

On the other hand, the original action under Rule 65 raises questions of jurisdiction emanating from the acts of public respondent, DAR Adjudication Board (DARAB), of capriciously and arbitrarily assuming appellate jurisdiction over the final and executory resolution of the Rizal Provincial Adjudicator (PARAD) and rendering a decision thereon which constituted grave abuse of discretion amounting to lack of jurisdiction. DARAB compounded it by totally and literally ignoring the decision of the Supreme Court in a parallel case.[54]

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[54] *Rollo*, pp. 54-55 (G.R. No. 127497).

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In *Fortich v. Corona*,[55] we held that in such a case, Rule 65 and not Rule 43 (formerly Revised Circular No. 1-91) will apply:

> However, we hold that, in this particular case, the remedy prescribed in Rule 43 is inapplicable considering that the present petition contains an allegation that the challenged resolution is "patently illegal" and was issued with "grave abuse of discretion" and "beyond his (respondent Secretary Renato C. Corona's) jurisdiction" when said resolution substantially modified the earlier OP Decision of March 29, 1996 which had long become final and executory. In other words, the crucial issue raised here involves an error of jurisdiction, not an error of judgment which is reviewable by an appeal under Rule 43. Thus, the approximate remedy to annul and set aside the assailed resolution is an original special civil action for *certiorari* under Rule 65, as what the petitioners have correctly done. . . .

The thirty (30)-day period under Section 54 of Rep. Act No. 6657 is extendible, but such extension should not exceed the period now provided for in Section 4, Rule 65 of the Rules of Court, as amended. Thus:

> SEC. 4. *Where petition filed.* — The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.

IN LIGHT OF ALL THE FOREGOING, the petitions are *DENIED* due course and are *DISMISSED*. Costs against the petitioner.

SO ORDERED.

Puno (Chairman), Quisumbing, Austria-Martinez, and *Tinga, JJ.,* concur.

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[55] *Supra*.