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[G.R. No. L-35739. July 2, 1979]

LILIA Y. GONZALES, *petitioner, vs.* **CONRADO F. ESTRELLA, in his capacity as Secretary of the Department of Agrarian Reform,** *respondent.*

SYLLABUS

LABOR AND SOCIAL LEGISLATION; AGRARIAN REFORM; EMANCIPATION OF TENANTS FROM THE BONDAGE OF SOUL (P.D. No. 27); PART AND PARCEL OF THE CONSTITUTION.— P.D. No. 27 was issued in October of 1972. The very next month, the 1971 Constitutional Convention voiced its overwhelming approval. There is no doubt then, as set forth expressly therein, that the goal is emancipation. What is more, the decree is now part and parcel of the law of the land according to the present Constitution. Ejectment therefore of petitioners is simply out of the question. That would be to set at naught an express mandate of the Constitution. Once it has spoken, our duty is clear; obedience is unavoidable. This is so not only because of the cardinal postulate of constitutionalism, the supremacy of the fundamental law. It is also because any other approach would run the risk of setting at naught this basic aspiration to do away with all remnants of a feudalistic order at war with the promise and the hope associated with an open society. To deprive petitioners of the small landholdings in the face of a presidential decree considered ratified by the new Constitution and precisely in accordance with its avowed objective could indeed be contributory to perpetuating the misery that tenancy had spawned in the past as well as the grave social problems thereby created. There can be no justification for any other decision then whether predicated on a juridical norm or on the traditional role assigned to the judiciary of implementing and not thwarting fundamental policy goals."

APPEARANCES OF COUNSEL

Ramon A. Gonzales for petitioner.

Solicitor General Estelito P. Mendoza, Assistant Solicitor General Vicente V. Mendoza and *Assistant Solicitor General Reynato S. Puno* for respondent.

Supreme Court E-Library

DECISION

FERNANDO, *C.J.*:

The constitutionality of Presidential Decree No. 27 was assumed in *Chavez v. Zobel*,[1] decided on the first anniversary of the 1973 Constitution. It is entitled "Decreeing the Emancipation of Tenants From the Bondage of the Soil Transferring to Them the Ownership of the Land They Till and Providing the Instruments and Mechanism Therefor."[2] Its constitutionality is the specific question raised in this suit for prohibition. In the language of the petition itself: "The main issue in this case is whether martial law was validly declared throughout the country by His Excellency, the President of the Philippines, in his capacity as Commander-in-Chief of the armed forces, thru Proclamation No. 1081, dated September 21, 1972. For, if it is valid, then, General Order No. 1 and Presidential Decree No. 27 resting on it, are likewise valid. Otherwise, they are not."[3] The problem as thus posed admits of but one answer. This Court unequivocally upheld the validity of Proclamation No. 1081 in *Aquino Jr. v. Ponce Enrile*,[4] decided as far back as September 17, 1974. The outcome then cannot be in doubt. This petition must be dismissed. Presidential Decree No. 27 has survived the test of constitutionality.

The facts are undisputed. Petitioner Lilia Y. Gonzales is the owner of Lot 2159 of Barotac Nuevo, Iloilo, with an area of 63.5959 hectares, her paraphernal property. It is an irrigated riceland held by thirty (30) tenants under leasehold tenancy.[5] Clearly then, she was adversely affected by Presidential Decree No. 27, which ordered the emancipation of all tenant farmers as of said date and provided that the tenants should become

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[1] L-28609, January 17, 1974, 55 SCRA 26.

[2] It was issued on October 21, 1972.

[3] Petition, 2.

[4] L-35546, September 17, 1974, 59 SCRA 183.

[5] Petition, pars. 1 and 2.

Supreme Court E-Library

the owners of a family-size farm of five (5) hectares, if the land is not irrigated, and three (3) hectares, if irrigated, while the landowner could retain seven (7) hectares[6] if such owner should cultivate or would cultivate it.

As set forth at the outset, there was in the express terms of the specific issue raised no showing of invalidity.

1. The then Chief Justice Makalintal in expressing his individual opinion as well as summarizing the voting of this Court on the major issues involved in the aforesaid *Aquino Jr. v. Ponce Enrile* decision, after first stating that on "the final result the vote is practically unanimous," set forth the following: "In the first place I am convinced (as are the other Justices), without need of receiving evidence as in an ordinary adversary court proceeding, that a state of rebellion existed in the country when Proclamation No. 1081 was issued. It was a matter of contemporary history within the cognizance not only of the courts but of all observant people residing here at the time. Many of the facts and events recited in detail in the different 'Whereases' of the proclamation are of common knowledge. The state of rebellion continues up to the present. The argument that while armed hostilities go on in several provinces in Mindanao there are none in other regions except in isolated pockets in Luzon, and that therefore there is no need to maintain martial law all over the country, ignores the sophisticated nature and ramifications of rebellion in a modern setting. It does not consist simply of armed clashes between organized and identifiable groups on fields of their own choosing. It includes subversion of the most subtle kind, necessarily clandestine and operating precisely where there is no actual fighting. Underground propaganda, through printed news sheets or rumors disseminated in whispers; recruitment of armed and ideological adherents, raising of funds, procurement of arms and material, fifth-column activities including sabotage and intelligence — all these are part of the rebellion which by their nature are usually conducted far from the battle fronts. They cannot be counteracted effectively unless recognized

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[6] *Ibid.*, par. 3.

Supreme Court E-Library

and dealt with in that context."[7] He went further: "Secondly, my view, which coincides with that of other members of the Court as stated in their opinions, is that the question of validity of Proclamation No. 1081 has been foreclosed by the transitory provision of the 1973 Constitution [Art. XVII, Sec. 3 (2)] that 'all proclamations, orders, decrees, instructions, and acts promulgated, issued, or done by the incumbent President shall be part of the law of the land and shall remain valid, legal, binding and effective even after * * * the ratification of this Constitution * * *.'"[8]

2. The imperative need for such a decree was stressed in *Chavez v. Zobel.* An excerpt from the opinion in that case is relevant: "On this vital policy question, one of the utmost concern, the need for what for some is a radical solution in its pristine sense, one that goes at the root, was apparent, Presidential Decree No. 27 was thus conceived. It was issued in October of 1972. The very next month, the 1971 Constitutional Convention voiced its overwhelming approval. There is no doubt then, as set forth expressly therein, that the goal is emancipation. What is more, the decree is now part and parcel of the law of the land according to the present Constitution. Ejectment therefore of petitioners is simply out of the question. That would be to set at naught an express mandate of the Constitution. Once it has spoken, our duty is clear; obedience is unavoidable. This is so not only because of the cardinal postulate of constitutionalism, the supremacy of the fundamental law. It is also because any other approach would run the risk of setting at naught this basic aspiration to do away with all remnants of a feudalistic order

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[7] 59 SCRA 183, 240-241.

[8] *Ibid.*, 241. The then Chief Justice likewise noted that the then Justice Muñoz Palma withheld "her assent to any sweeping statement that the same in effect validated, in the constitutional sense, all 'such proclamations, decrees, instructions, and acts promulgated, issued, or done by the incumbent President.' All that she concedes is that the transitory provision merely gives them 'the imprimatur of a law but not of a constitutional mandate,' and as such therefore 'are subject to judicial review when proper under the Constitution.'" *Ibid.*

Supreme Court E-Library

at war with the promise and the hope associated with an open society. To deprive petitioners of the small landholdings in the face of a presidential decree considered ratified by the new Constitution and precisely in accordance with its avowed objective could indeed be contributory to perpetuating the misery that tenancy had spawned in the past as well as the grave social problems thereby created. There can be no justification for any other decision then whether predicated on a juridical norm or on the traditional role assigned to the judiciary of implementing and not thwarting fundamental policy goals."[9]

WHEREFORE, this petition for prohibition is dismissed.

Barredo, Makasiar, Antonio, Aquino, Concepcion Jr., Santos, Fernandez, Abad Santos, De Castro, and *Melencio-Herrera, JJ.*, concur.

Teehankee and *Guerrero, JJ.*, are on official leave.

SECOND DIVISION

[G.R. No. L-48687. July 2, 1979]

GENCONSU FREE WORKERS UNION, BENJAMIN CUEVAS, and CARLOS ENRIQUEZ, *petitioners, vs.* **HON. AMADO G. INCIONG, DEPUTY MINISTER OF LABOR and ALLENCO STEEL CORPORATION,** *respondents.*

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[9] 55 SCRA 26, 31. Art. XIV, Section 12 of the present Constitution reads thus: "The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution."