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and the Writ of Preliminary Injunction issued by it in the said case on August 24, 1995 are *NULLIFIED*. No costs.

SO ORDERED.

Quisumbing, Austria-Martinez, and *Tinga, JJ.*, concur.

Puno, J., (*Chairman*) on official leave.

SECOND DIVISION

[G.R. No. 142359. May 25, 2004]

PASONG BAYABAS FARMERS ASSOCIATION, INC., represented by DOMINGO BANAAG, JR., President; BERNARDO POBLETE, Vice-President, and its Members, *petitioners, vs.* **The Honorable COURT OF APPEALS, CREDITO ASIATIC, INC., ERNESTO TANCHI, SR., GEN. DIONISIO OJEDA (deceased), ELENA P. BIGAY, and LANRICO MINISTERIO,** *respondents*.

[G.R. No. 142980. May 25, 2004]

DEPARTMENT OF AGRARIAN REFORM (DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD), *petitioners, vs.* **The Honorable COURT OF APPEALS, CREDITO ASIATIC, INC., ERNESTO TANCHI, SR., GEN. DIONISIO OJEDA (deceased), ELENA P. BIGAY, and LANRICO MINISTERIO,** *respondents*.

SYNOPSIS

Petitioners assailed the Decision of the Court of Appeals in CA-G.R. SP No. 49363, which set aside and reversed the

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decision of the Department of Agrarian Reform Adjudication Board, in DARAB Case No. 5191, and reinstated the decision of the Provincial Agrarian Reform Adjudication Board (PARAD) of Trece Martirez City, In DARAB Case No. CA-0285-95 which, in turn, ordered the dismissal of the complaint for Maintenance for Peaceful Possession and Cultivation with Damages with prayer for the Issuance of a Temporary Restraining Order/ Preliminary Injunction of petitioner Pasong Bayabas Farmers Association, Inc. (PBFAI).

Petitioners contended that the reclassification of the property made by the Municipal Council of Carmona, Cavite, under Kapasiyahang Blg. 30 on May 30, 1976, was subject to the approval of the HSRC, now the HLURB. Since there was no such approval, the said resolution of the Municipal Council of Carmona was ineffective. They argued that under Section 65 of Rep. Act No. 6657, the DAR is vested with the exclusive authority to reclassify a landholding from agricultural to residential. The petitioners submitted that the exclusive authority of the DAR is not negated by Section 20 of the Local Government Code of 1991. Moreover, the development of the property had not yet been completed even after Rep. Act No. 6657 took effect. Hence, it was incumbent upon the private respondent LDC, now Credito Asiatic, Inc., (CAI) to secure the exemption thereto, after complying with DAR Administrative Order No 6, Series of 1994.

The Court found the contentions of the petitioners unmeritorious. According to the Court, Section 3 of Rep. Act No. 2264, amending the Local Government Code, specifically empowers municipal and/or city councils to adopt zoning and subdivision ordinances or regulations in consultation with the National Planning Commission. The power of the local government to convert or reclassify lands to residential lands to non-agricultural lands reclassified is not subject to the approval of the Department of Agrarian Reform. Section 65 of Rep. Act No. 6657 relied upon by the petitioners does not apply to agricultural lands already converted as residential lands prior to the passage of Rep. Act No. 6657. When Agrarian Reform Minister Conrado F. Estrella confirmed the reclassification of the property by the Municipal Council of Carmona to non-agricultural land when he approved, on July 3, 1979, the application of the private respondent for the conversion of 35.80

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hectares of the property covered by TCT No. 62972 into non-agricultural land, he did so pursuant to his authority under Rep. Act No. 3844, as amended, by P.D. No. 815 and P.D. No. 946. The order of the Minister was not reversed by the Office of the President; as such it became final and executory. By declaring that the property subject of the suit was agricultural land, the petitioner DARAB thereby reversed the Order of Agrarian Reform Minister Estrella, issued almost eighteen (18) years before, and nullified Resolution No. 30 of the Municipal Council of Carmona, approved twenty-one years earlier, as well as the issuances of the NHA, the HSRC, the HLURB, the Ministry of Local Government and the National Planning Commission. Thus, the petitioner DARAB acted with grave abuse of its discretion amounting to excess or lack of jurisdiction. The failure of the respondent to complete the housing project before June 15, 1988, even if true, did not have the effect of reverting the property as agricutural land. With the Court's finding that the property subject of the suit was classified as residential land since 1976, the DARAB had no original and appellate jurisdiction over the property subject of the action of the petitioner PBFAI and its members. Consequently, the DARAB should have ordered the dismissal of the complaint. The Court dismissed the complaint of the petitioner PBFAI and private respondent CAI's counterclaim for damages in DARAB Case No. CA-0285-95. The thirty-seven members of the petitioner PBFAI and all those occupying the property subject of the complaint in DARAB Case No. CA-0285-95 in their behalf were ordered to vacate the subject landholding.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; FACTUAL FINDINGS BY ADMINISTRATIVE AGENCIES GENERALLY ACCORDED GREAT RESPECT IF NOT FINALITY BY THE COURTS; EXCEPTION.**— It is well-settled that in a petition for review on *certiorari* under Rule 45 of the Rules of Court, only questions of law may be raised. We have time and again ruled that the factual findings of fact by administrative agencies are generally accorded great respect, if not finality, by the courts because of the special knowledge and expertise of administrative departments over matters falling under their jurisdiction. However, due to the divergence of the findings of the PARAD, on the one hand, and the DARAB on the other, and considering

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the findings of the DARAB and the Court of Appeals, we are constrained to review the records and resolve the factual and the legal issues involved.

2. **ID.; JURISDICTION; ALL PROCEEDINGS BEFORE A TRIBUNAL OR QUASI-JUDICIAL AGENCY BEREFT OF JURISDICTION OVER THE SUBJECT MATTER OF THE ACTION ARE NULL AND VOID.**— With our finding that the property subject of the suit was classified as residential land since 1976, the DARAB had no original and appellate jurisdiction over the property subject of the action of the petitioner PBFAI and its members. Consequently, the DARAB should have ordered the dismissal of the complaint. The jurisdiction of a tribunal or *quasi-judicial* body over the subject matter is determined by the averments of the complaint/petition and the law extant at the time of the commencement of the suit/complaint/petition. All proceedings before a tribunal or *quasi-judicial* agency bereft of jurisdiction over the subject matter of the action are null and void.

3. **LABOR AND SOCIAL LEGISLATION; REPUBLIC ACT NO. 6657, AGRARIAN REFORM LAW; AGRICULTURAL LANDS; DEFINED.**— Under Section 3(c) of Rep. Act No. 6657, agricultural lands refer to lands devoted to agriculture as conferred in the said law and not classified as industrial land. Agricultural lands are only those lands which are arable or suitable lands that do not include commercial, industrial and residential lands. Section 4(e) of the law provides that it covers all private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon. Rep. Act No. 6657 took effect only on June 15, 1988.

4. **ID.; ID.; ID.; POWER OF THE LOCAL GOVERNMENT TO CONVERT OR RECLASSIFY LANDS TO RESIDENTIAL LANDS TO NON-AGRICULTURAL LANDS RECLASSIFIED NOT SUBJECT TO APPROVAL OF DEPARTMENT OF AGRARIAN REFORM.**— Section 3 of Rep. Act No. 2264, amending the Local Government Code, specifically empowers municipal and/or city councils to adopt zoning and subdivision ordinances or regulations in consultation with the National Planning Commission. A zoning ordinance prescribes, defines, and apportions a given political subdivision into specific land uses as present and future projection of needs. The power of the local government to convert or reclassify lands to residential

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lands to non-agricultural lands reclassified is not subject to the approval of the Department of Agrarian Reform. Section 65 of Rep. Act No. 6657 relied upon by the petitioner applies only to applications by the landlord or the beneficiary for the conversion of lands previously placed under the agrarian reform law after the lapse of five years from its award. It does not apply to agricultural lands already converted as residential lands prior to the passage of Rep. Act No. 6657.

5. **ID.; ID.; ID.; TENANCY RELATIONSHIP; ELEMENTS.**— In *Monsanto v. Zerna*, we held that for the DARAB to have jurisdiction over a case there must exist a tenancy relationship between the parties. In order for a tenancy agreement to take hold over a dispute, it is essential to establish all the indispensable elements, to wit: (1) The parties are the landowner and the tenant or agricultural lessee; (2) The subject matter of the relationship is an agricultural land; (3) There is consent between the parties to the relationship; (4) The purpose of the relationship is to bring about agricultural production; (5) There is personal cultivation on the part of the tenant or agricultural lessee; and (6) The harvest is shared between the landowner and the tenant or agricultural lessee.

APPEARANCES OF COUNSEL

Evaristo A. Torrefranca for petitioners.
Isidro Carrasca Gumtang for PBFAI.
Oscar P. Paguinto for L. Ministerio.
Edna S. Pana for private respondent in G.R. No. 142359.

D E C I S I O N

CALLEJO, SR., *J.*:

Before the Court are petitions for review on *certiorari* of the Decision[1] of the Court of Appeals, in C.A.-G.R. SP No. 49363, which set aside and reversed the decision of the

[1] Penned by Associate Justice Roberto A. Barrios with Associate Justices Eubulo G. Verzola and Eriberto U. Rosario, Jr., concurring.

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Department of Agrarian Reform Adjudication Board (DARAB), in DARAB Case No. 5191, and reinstated the decision of the Provincial Agrarian Reform Adjudication Board (PARAD) of Trece Martirez City, in DARAB Case No. CA-0285-95 which, in turn, ordered the dismissal of the complaint for Maintenance for Peaceful Possession and Cultivation with Damages with Prayer for the Issuance of a Temporary Restraining Order/ Preliminary Injunction of petitioner Pasong Bayabas Farmers Association, Inc. (PBFAI).

The Antecedents

Sometime in 1964, Lakeview Development Corporation (LDC, for brevity) bought a parcel of land with an area of 753,610 square meters (75.3610 hectares) located at Barrio Kabilang-Baybay, Carmona, Cavite,[2] covered by Transfer Certificate of Titles (TCT) No. T-91584 and T-91585. On September 20, 1977, the aforesaid titles were cancelled by TCT No. T-62972 issued to and in the name of the LDC's successor, the Credito Asiatic, Incorporated (CAI).[3] The property was subsequently subdivided into two parcels of land, one of which was covered by TCT No. 116658, with an area of 365,753 square meters, and the other covered by TCT No. 116659 with an area of 387,853 square meters.[4]

Meanwhile, the LDC/CAI undertook to develop its 75-hectare property into a residential and industrial estate, where industrial sites and a low cost housing project inceptually called the Tamanli Housing Project would be established. The LDC applied with the Municipal Council of Carmona for an ordinance approving the zoning and the subdivision of the property. The subdivision plan was referred by the council to the National Planning Commission as mandated by Administrative Order No. 152, Series of 1968. The Commission approved the plan and on May 30, 1976, the *Tanggapan Ng Sangguniang Bayan ng Karmona*

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[2] Now Barangay F. del Rosario, General Mariano Alvarez, Cavite.

[3] Records, Vol. IV, p. 300; Exhibit "D", Plaintiffs' Folder of Exhibits, pp. 8-10.

[4] Exhibits "38" and "38-B"; Records, Vol. IV, pp. 262-265.

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(Municipal Council of Carmona) approved *Kapasiyahang Bilang 30*, granting the application and affirming the project. The resolution reads:

Kapasiyahang Bilang 30

Sapagkat, ang TAMANLI HOUSING PROJECT *at* LAKEVIEW DEVELOPMENT CORP. *ay nagharap ng kanilang kahilingan dito sa ating Kapulungan, sa pamamagitan ni G. BENJAMIN F. GOMEZ,* Chief, Physical Environmental Planning Service ng DLGCD, *upang makapagpatayo sila ng murang pabahay sa may Lote Blg. E-Psd-11882, na nasa Bo. Cabilang Baybay ng bayang ito at Lote Blg. 4 (LRC) PCS 15453 saklaw ng bayang ito, ayon sa pagkakasunod-sunod;*

SAPAGKAT, ang bagay na ito ay makatutulong ng malaki sa ating mga kababayan, dahil sa ito ay nagbibigay ng murang pabahay;

SAPAGKAT, DAHIL DITO, sa mungkahi ni G. DOMINADOR ESPIRITU na pinangalawahan ni G. MELQUIADES MAHABO, ay pinagtibay, tulad nang ito'y pinagtitibay, na pagtibayin ang kahilingan ng Tamanli Housing Project at Lakeview Development Corp. na makapaglagay ng murang pabahay dito sa ating bayan, sa isang pasubaling ang mga ito ay kailangang pumailalim sa hinihingi ng Administrative Order No. 152, S-1968 ng Pangulo ng Bansang Pilipinas at sa umiiral ng mga kautusan at patakaran ng ating Pamahalaang Pambansa at Pamahalaang Pambayan.[5]

Subsequently, after a consolidated survey was approved by the Bureau of Lands, the lots were subdivided and the aforesaid titles were cancelled. TCT Nos. 144149, 144150 and T-144151 were issued in lieu of the said titles.[6]

The CAI embarked on the development of the housing project into three phases: First Phase, the Hakone Subdivision; Second Phase, the Sunshine Village & Casa de Monteverde; and, Third Phase, the Mandarin Homes.[7] The project was registered with the National Housing Authority (NHA) as required by Presidential

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[5] Exhibit "2-A", Defendants' Folder of Exhibits, p. 32.

[6] *Id.* at 356-361; 442.

[7] *Rollo*, p. 93 (G.R. No. 142359).

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Decree No. 957 which issued, on July 7, 1977, a license in favor of the LDC to sell the subdivision lots.

The property was subdivided into 728 residential lots per the consolidation subdivision plan approved by the Bureau of Lands, each with an average area of 240 square meters. Separate titles for each of the 728 lots were issued by the Register of Deeds of Cavite to and in the name of the CAI on September 20, 1977.

Meanwhile, the CAI secured a locational clearance for the project from the Human Settlements Regulatory Commission (HSRC).[8] Although the Municipal Council of Carmona had already approved the conversion of the property into a residential area, nevertheless, the CAI filed an application under Republic Act No. 3844 with the Office of the Minister of Agrarian Reform for the conversion of a portion of the 75-hectare property consisting of 35.80 hectares covered by TCT No. 62972 located in Barrio Kabilang-Baybay, Carmona, Cavite, from agricultural to residential. The property was to be used for the Hakone Housing Project. The Minister referred the matter to the Regional Director for investigation and recommendation and to the Ministry of Local Government and Community Development. On July 3, 1979, then Minister of Agrarian Reform Conrado F. Estrella issued an Order granting the petition and approved the conversion of the 35.80 hectare portion of TCT-62972 into a residential subdivision, pursuant to Rep. Act No. 3844, as amended. In so doing, it took into account the resolution of the Municipal Council of Carmona, the recommendation of the Regional Director of the Ministry of Agrarian Reform, the clearance from the HSRC as well as the Ministry of Local Government and Community Development. The order in part reads:

> Considering the parcel of land to be not covered by P.D. 27, it being untenanted and not devoted to the production of palay and/or corn as reported by the Agrarian Reform Team Leader concerned and favorably recommended for conversion by him and further, by

[8] Exhibit "10 "; Defendants' Folder of Exhibits, pp. 57–58.

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the Regional Director for Region IV, Pasig, Metro Manila, and considering further, that the parcel of land subject hereof was found to be suitable for conversion to residential subdivision by the Ministry of Local Government and Community Development and considering finally, that the herein petitioner was issued a locational clearance by the Human Settlements Regulatory Commission, the instant request of the petitioner is hereby GRANTED pursuant to the provisions of R.A. 3844, as amended, and P.D. 815.[9]

The grant was, however, subjected to the fulfillment of the following conditions:

1. Physical development shall commence within one (1) year from receipt hereof;

2. A setback of three (3) meters measured from the property lines to the edge of the normal high waterline of the Pasong Bayabas and Patayod Rivers shall be observed pursuant to the Water Code (P.D. 705);

3. Applicant-proponent shall undertake flood protective measures such as the construction of rip-rap walls or terracing and cribbing along the river banks to avoid erosion and flood;

4. Clearance from the Laguna Lake Development Authority shall be secured since the proposed project is within the Laguna Lake Basin; and

5. A permit to operate from the National Pollution Control Commission shall be secured and Anti-Pollution laws (R.A. 3981, P.D. 984 and others) shall be strictly observed.

Failure, however, to comply with the aforestated terms and conditions, this Ministry shall consider such violations as sufficient ground for the cancellation of the permit-order and this Ministry by reason thereof may take any or all course of action mentioned in the Memorandum-Agreement between this Ministry, the Ministry of Local Government and Community Development and the Human Settlements Regulatory

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[9] Exhibit "10 "; Defendants' Folder of Exhibits, pp. 57-58.

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Commission in addition to the penalties provided for in Presidential Decree 815, if so applicable.[10]

On March 14, 1980, the Sangguniang Panlalawigan ng Cavite (Provincial Board of Cavite) passed Resolution No. 40 declaring the midland areas composed of Carmona, Dasmariñas, parts of Silang and Trece Martirez (where the subject property is situated) and parts of Imus, as industrial areas.[11] Under Batas Pambansa Blg. 76, approved on June 13, 1980, the resettlement areas under the administration of the NHA in the barangays of San Gabriel, San Jose and a portion of Cabilang Baybay, all in the Municipality of Carmona, were separated from the said municipality and constituted into a new and independent municipality known as General Mariano Alvarez (GMA), Cavite.[12] In 1983, Asiatic Development Corporation (ADC), a sister company of CAI, started developing the property located in GMA covered by TCT No. 144150 into a residential housing project, called the Sunshine Village Phase IV (originally Hakone) with an area of 20.05 hectares. The ADC also secured in 1983[13] a preliminary approval and locational clearance from the HSRC for Sunshine Village Phase IV.[14]

The CAI also secured the following for its Hakone Housing Project:

1. HLURB License to Sell No. 0613 on November 7, 1983
2. HSRC Development Permit on April 11, 1984
3. HLURB Preliminary Approval and Locational Clearance on November 11, 1985
4. HSRC Preliminary Approval and Locational Clearance on November 17, 1983
5. HSRC Certificate of Registration No. 1069 on February 1, 1985
6. HSRC License to Sell No. 1053 on March 18, 1985.[15]

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[10] *Ibid.*

[11] Records, Vol. III, pp. 85-86.

[12] Exhibit "3-A"; Defendants' Folder of Exhibits, pp. 33-36.

[13] Exhibit "11-B"; *Id.* at 61.

[14] Exhibit "11", *Id.* at 59.

[15] *Rollo*, p. 91.

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In 1987, the CAI decided to continue with the development of its Hakone Housing Project and contracted with E.M. Aragon Enterprises for the bulldozing of the property. However, the project was stymied by a Complaint for Damages with Prayer for Temporary Restraining Order and Preliminary Injunction filed on May 22, 1987 against the CAI in the Regional Trial Court of Cavite.[16] The case was docketed as Civil Case No. BCV-87-13 and was raffled to Branch 19.[17]

The plaintiffs alleged, *inter alia*, that while the defendant CAI was the owner of the 75.36-hectare land covered by TCT-62972, they were the actual tillers of the land. The defendant had surreptitiously applied for the conversion of the 35.8-hectare portion of the aforesaid property from agricultural to residential and the same was granted by the Ministry of Agrarian Reform, as can be gleaned from the July 3, 1979 Order of Agrarian Reform Minister Estrella. According to the plaintiffs, they came to know of the conversion only in January 1987. Notwithstanding the issuance of the order of conversion, Ramie Cabusbusan, the representative of the CAI, allowed them to continue cultivating the aforementioned property. They were, however, required to pay a rental of ₱400 a year per hectare. They paid the rental and continued to occupy and till the aforesaid property pursuant to the agreement. On October 28, 1986 and November 11, 1986, the plaintiffs, together with other tillers of the land, met Cabusbusan at the Municipal Branch of the then Ministry of Agrarian Reform and reached an agreement that the plaintiffs would remain in the peaceful possession of their farmholdings. Notwithstanding such agreement, the defendant ordered the bulldozing of the property, by reason of which the plaintiffs suffered actual damages. Furthermore, the plaintiffs alleged that the bulldozing was done without any permit from the concerned public authorities.

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[16] The plaintiffs in Civil Case No. BCV-87-13 were as follows: Medy Vinzon, Elenita Canaria, Luz Alvarez, Elena Layaban, Leoncio Demillo, Lolita Banaag, Godofredo Inciong, Cresencio Layaban, Bernardo Poblete, Leoncio Banaag, Estelita Gaut, Jose Sumallo, Victoria Valerio and Casimiro Mabilangan, known as the *Pamilya Katorse*.

[17] Exhibit "2"; Records, Vol. IV, pp. 205-210.

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The plaintiffs, thus, prayed that a temporary restraining order be issued against the CAI from continuing with the bulldozing of the property, and that after due hearing, judgment be rendered in their favor, ordering the defendants to refrain from implementing the July 3, 1979 Order of Agrarian Reform Minister Estrella.[18]

In its answer to the complaint, the CAI admitted its ownership of the 753,610 square meter property covered and described under TCT No. 62972 and the issuance of the Order of Conversion of the 35.8 hectare portion thereof. However, it denied that it allowed the plaintiffs to possess and cultivate the landholding with fixed rentals therefor.[19] The CAI prayed that the prayer for preliminary injunction be denied and that judgment be issued dismissing the complaint and absolving it from any liability. It counterclaimed for the amount paid by it to E.M. Aragon Enterprises for expenses for the rent of the bulldozer and moral damages.[20]

Meanwhile, the CAI and six of the fourteen plaintiffs, namely, Medy Vinzon, Luz Alvarez, Godofredo Inciong, Bernardo Poblete, Estelita Gaut and Victoria Valerio, entered into a compromise agreement whereby the defendant donated parcels of land in consideration of the execution of deeds of quitclaims and waivers. Conformably to the said agreement, the plaintiffs executed separate deeds of quitclaim in favor of the CAI over the portion of the property which they claimed they occupied. The six plaintiffs filed a Motion to Dismiss the complaint on June 19, 1989.[21] On June 20, 1989, the RTC of Cavite issued an Order dismissing the complaint but only insofar as the plaintiffs Vinzon, Alvarez, Inciong, Poblete, Gaut and Valerio were concerned.[22] With respect to the other eight (8) plaintiffs, the court proceeded with the scheduled hearing.

The civil case notwithstanding, the CAI decided to proceed with the third phase of its project. It developed its eleven-hectare

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[18] Records, Vol. IV, pp. 208-209.

[19] Exhibit "3"; *Id.* at 213-217; In 1987, TCT No. T-62972 was cancelled and TCT No. 156224 was issued.

[20] *Id.* at 217.

[21] Exhibit "6"; Records, Vol. IV, p. 221.

[22] Exhibit "5"; *Id.* at 220.

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property into a residential property called the Mandarin Homes. The CAI applied for and was granted a separate Order of Conversion on January 2, 1990 by the Department of Agrarian Reform (DAR).[23] In 1991, the CAI started selling the houses in its Mandarin Homes Project.[24]

In the meantime, the remaining plaintiffs in Civil Case No. BCV-87-13 entered into a compromise agreement in which the CAI executed Deeds of Donation[25] in their favor over parcels of land. The said plaintiffs, in turn, executed quitclaims[26] and waivers over the portions of the property which they claimed they occupied. Thereafter, the plaintiffs and the CAI filed a motion to dismiss the complaint. The trial court issued an Order granting the motion and dismissing the complaint on June 20, 1991.[27] Consequently, all the plaintiffs were issued separate titles over the parcels of land donated to them by the CAI which were declared, for taxation purposes, in the names of the latter.[28]

With the settlement of the civil case, the CAI continued with its development of the rest of the Hakone Housing Project by causing a survey of the property. However, the CAI was stymied anew when, on November 25, 1992, a Petition for Compulsory Coverage under Rep. Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL) was filed before the DAR by seventeen (17) individuals.[29] They alleged that

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[23] *Rollo*, p. 19 (G.R. No. 142359).

[24] Records, Vol. IV, pp. 705-709.

[25] Exhibits "13-A"; "13"; Defendants' Folder of Exhibits, pp. 69-73.

[26] Exhibits "14" to "14-C", *Id.* at 74-80.

[27] Exhibit "12"; *Id.* at 66.

[28] Exhibits "15, 15-A, 15-B, 15-C, 15-D, 16, 16-A, 16-B, 16-C", *Id.* at 81-91.

[29] The said individuals are as follows: Domingo G. Banaag, Vivencia Poblete, Gerardo Banaag, Loreto Banaag, Victoriano Banaag, Lucio B. Banaag, Elegio Banaag, Florencio Poblete, Maricel Poblete, Jovencio Calica, Francisco Villareal, Arcenio L. Cayabyab, Felicisima Garsote, Ma. Christina Banaag, Elena Layaban, Alijandro Sanganbayan and Lolita Garcia.

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they were farmers of Bo. 14, Pasong Bayabas River, Barangay F. De Castro, GMA, Cavite.[30] The petitioners claimed that since 1961, they had been occupying a parcel of public agricultural land originally owned by General Dionisio Ojeda with an area of twenty-seven hectares, more or less, adjacent to Pasong Bayabas River. They tilled the said agricultural lands and planted it with rice, corn, vegetables, root crops, fruit trees and raised small livestock for daily survival.[31]

The petitioners requested that the DAR order an official survey of the aforesaid agricultural lands. Pending resolution of their petition, the petitioners and twenty (20) others banded together and formed a group called Pasong Bayabas Farmers Association, Inc. (PBFAI) affiliated with Kalipunan ng Samahan ng Mamamayan, Inc. (KASAMA).[32]

On June 10, 1994, Domingo Banaag, in his capacity as President of PBFAI, filed a petition for compulsory coverage of a portion of the CAI property covered by TCT No. 91585,[33] with an area of 47 hectares under Rep. Act No. 6657. On August 18, 1994, Legal Officer Maria Laarni N. Morallos of the DAR, in her Memorandum to Regional Director Percival C. Dalugdug,

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[30] Exhibit "H"; Plaintiffs' Folder of Exhibits, pp. 17-18.

[31] According to the petitioners, they cultivated a total of 13 hectares, as follows:

NAME	AREA
1. Domingo Banaag	2 hectares
2. Vivencia Poblete	2 hectares
3. Gerardo Banaag	1 hectare
4. Loreto Banaag	1 ½ hectares
5. Victoriano Banaag	1 ½ hectares
6. Lucio B. Banaag	1 hectare
7. Elegio Banaag	1 hectare
8. Florencio Poblete	1 hectare
9. Maricel Poblete	1 hectare
10. Jovencio Calica	2,500 square meters
11. Francisco Villareal	5,000 square meters
12. Arcenio L. Cayabyab	2,500 square meters

(*Id.* at 18).

[32] Records, Vol. IV, pp. 8 to 8-1.

[33] Cancelled by TCT No. 62972, registered under the name of CAI.

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reported that the Municipal Agrarian Reform Office (MARO) had taken preliminary steps for the compulsory coverage of the property and, in fact, had interviewed its occupants. The processing was stalled, however, because documents such as the titles and tax declarations covering the property had not yet been submitted, and the formal application had yet to be made by the petitioners.[34] She recommended that the petition be indorsed to the MARO Office. Pending the resolution of the petition of the PBFAI, the CAI decided to continue with its Hakone Housing Project and ordered a survey of the property on October 6, 1995. The survey was completed on October 9, 1995. On October 14 and 15, 1995, the CAI caused the bulldozing and other development activities, which resulted in the destruction of plants and trees.

The PBFAI-KASAMA, representing the farmers-tenants, filed a complaint for Maintenance of Peaceful Possession and Cultivation with Damages with Prayer for the Issuance of a Temporary Restraining Order and Preliminary Injunction before the Department of Agrarian Reform Adjudication Board (DARAB), Region IV, Trece Martirez City, Cavite, against the CAI, Tan Chi, Dionisio Ojeda, Elena Bigay, Lanrico Ministerio and Alfredo Espiritu over a portion of the property of the CAI. The case was docketed as DARAB Case No. CA-0285-95.[35]

The plaintiffs therein alleged that since 1961, its members had been in actual possession, as tenants of General Dionisio Ojeda, of the 27-hectare property, located in Pasong Bayabas, Cabilang Baybay, Carmona, Cavite[36] covere3d by TCT No. T-69813 in the name of Pan Asiatic Commercial Co., Inc.;[37] T-91584[38] and T-69810 owned by the LDC. They applied for the compulsory

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[34] Exhibit "F"; Records, Vol. IV, p. 149.

[35] Records, Vol. IV, pp. 2-8.

[36] Now Barangay F. de Castro, GMA, Cavite.

[37] Exhibit "B", Plaintiffs' Folder of Exhibits, p. 51.

[38] TCT Nos. 91584-85 were cancelled and a new one TCT No. T-62972 was issued in the name of Lakeview Development Corporation on September 20, 1977.

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coverage of the property under CARL before the DAR in 1992, and on October 6, 1995, the CAI caused the survey of the property. The CAI commenced the bulldozing activities on the property on October 14, 1995 without any permit from the Department of Environment and Natural Resources (DENR) or from the Office of the *Barangay* Captain. According to the petitioners, the said illegal bulldozing activities would convert the land from agricultural to non-agricultural land, thereby depriving the members of the PBFAI of their tenancy rights over the property. For this reason, the petitioners prayed that a temporary restraining order be issued *ex-parte* to stop the bulldozing of the property, and that a preliminary injunction or a *status quo* order be later issued to enjoin the same.

The complainants prayed that, after due proceedings, judgment be rendered in their favor, *viz*:

. . . . . .

3. That the Defendants Tan Chi and Dionisio Ojeda, as the most responsible officers of the Defendant Corporation be ordered to direct persons acting under their authority to respect the peaceful possession and cultivation of the Plaintiffs, of the subject land;

4. That the Defendants Lanrico Ministerio and Alfredo Espiritu be ordered to respect and maintain the peaceful tenancy of the Plaintiffs, of the subject land;

5. That the Defendants be ordered jointly and severally to pay to the Plaintiffs:

   ₱500,000.00 as moral damages;
   ₱250,000.00 by way of exemplary damages;
   ₱50,000.00 in reimbursement of litigation expenses.

6. That the Defendants pay for the costs of this suit; and

7. That other reliefs and remedies be afforded to the Plaintiffs as may be just and equitable under the premises.[39]

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[39] Records, Vol. IV, p. 4.

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On October 27, 1995, Provincial Adjudicator Barbara P. Tan issued a Temporary Restraining Order worded as follows:

> WHEREFORE, premises considered let a TEMPORARY RESTRAINING ORDER hereby issue to take effect for a period of twenty (20) days from receipt hereof;
>
> 1) Enjoining the defendant landowner and any/all persons acting for and in its behalf or under its authority to cease and desist from further bulldozing the premises in question and committing acts of dispossession or tending to disturb the peaceful possession and cultivation of the complainants of the landholdings in question.
>
> Meantime, let the hearing of the Preliminary Injunction incident be set on November 9, 1995 at 1:30 P.M.[40]

The defendants filed their Answer with Motion to Lift Restraining Order and Preliminary Injunction.[41] Therein, they denied the personal circumstances of the plaintiffs and the personal circumstances of the defendants Lanrico Ministerio and Alfredo Espiritu. The defendants admitted that the CAI was the registered owner of the property, but specifically denied that the plaintiffs were recognized by the CAI as tenants-occupants of the aforesaid property since 1961. They asserted that the CAI did not consent to the cultivation of the property nor to the erection of the plaintiffs' houses. They further averred that the CAI had entered into a compromise agreement with the occupants of the property, the plaintiffs in Civil Case No. BCV-87-13 in the RTC of Cavite. They also alleged that they secured a permit from the Municipal Planning and Development Offices before bulldozing activities on the property were ordered.

The defendants raised the following as their special and affirmative defenses: (a) the plaintiffs' action is barred by the dismissal of their complaint in Civil Case No. BCV-87-13, per Order of the RTC of Cavite, Branch 19, dated June 20, 1991; (b) the plaintiffs had waived their rights and interests over the property when

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[40] *Id.* at 53-54.

[41] *Id.* at 56-68.

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they executed deeds of waiver and quitclaim in favor of the defendant CAI; (c) then Agrarian Reform Minister Estrella had issued an Order dated July 3, 1979, converting the property into a residential area and withdrawing the property from the coverage of the CARL; (d) the defendant partitioned the development of the area into Phase I, II, III and IV, while the residential property subject of the petition is in Phase IV thereof; (e) before embarking in the development of the property, the respondent CAI secured the following: (1) preliminary approval and locational clearance for phase IV; (2) development permit for 844 units; (3) Certificate of Registration No. 1069 issued by the HSRC; and (4) License to Sell No. 1053.[42] Finally, the defendants contended that the property had an 18% slope and was undeveloped; as such, it was exempt from the coverage of the CARL, under Section 10 of Rep. Act No. 6657.

As compulsory counterclaim, the defendants alleged that it had entered into an Equipment Rental Requisition Contract with E.M. Aragon Enterprises for the bulldozing of the property, for which it incurred the following expenses: an advance payment of ₱200,000; rental rate of ₱1,000 per hour for 8 hours a day plus transportation of ₱50,000; and, salaries of not less than ₱5,000 per month for the mechanics and drivers. They prayed that after due proceedings, judgment be rendered dismissing the plaintiffs' complaint and absolving it of any liability.[43]

The plaintiffs, for their part, averred that Civil Case No. BCV-87-13 was not decided on the merits, but was merely based upon a compromise agreement between the parties. Moreover, there was no identity of parties between Civil Case No. BCV-87-13 and the present case, as the sole defendant was the CAI, while of the plaintiffs in DARAB Case No. CA No. 0285-95, only Domingo Banaag and Leoncio Banaag were the plaintiffs in Civil Case No. BCV-87-13. On the claim of the defendants that the CAI was released and discharged from any and all liabilities of the plaintiffs by virtue of the Deeds of Waiver and Quitclaim executed by

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[42] Records, Vol. IV, p. 63.

[43] *Id.* at 65.

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the fourteen plaintiffs in Civil Case No. BCV-87-13, the plaintiffs averred that only two of the plaintiffs, namely, Domingo Banaag and Leoncio Banaag were among the thirty-seven (37) complainants-members of PBFAI who filed the petition before the DARAB.

The plaintiffs posited that the conversion orders and other deeds issued by the HSRC and its successor, the HLURB, were issued before the effectivity of Rep. Act No. 6657 when agricultural land was limited to those planted with rice and corn crops. But upon the enactment of Rep. Act No. 6657, the reclassification of agricultural lands included those planted with fruit-bearing trees, such as, the subject property. Hence, Agrarian Reform Minister Estrella did not have the authority to exempt the property from the coverage of Rep. Act No. 6657. The plaintiffs averred that the documents procured by the respondents from the HSRC and the HLURB cannot be given probative weight, as the authority to issue the said clearance/license is vested solely in the DAR.

As to the defense that the property subject of the suit has some parts with an 18% slope, the plaintiffs contended that what the law exempts are undeveloped parcels of land with an 18% slope. The entire property, however, was fully developed and planted with fruit-bearing trees of varied kinds, with houses of strong materials constructed thereon by the members of the PBFAI.

To determine the veracity of the conflicting claims of the parties, the Provincial Agrarian Reform Adjudicator (PARAD) issued an Order on November 23, 1995, setting an ocular inspection of the property. The parties were required to submit their respective position papers.[44] The ocular inspection proceeded as scheduled. On December 12, 1995, the PARAD issued an Order[45] containing the results of the inspection.

The individual tillages of the complainants were not inspected, and, as agreed upon, the physical inventory thereof was to be undertaken by Brgy. Captain Lanrico Ministerio. The inventory

[44] *Id.* at 133-134.

[45] *Id.* at 138-140.

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was designed to determine who among the petitioners were actual tillers, the area of tillage and the crops produced thereon; and to determine the value of the improvements in connection with a possible pay off, as the landowner had offered to reimburse the planters the value of their permanent improvements. The PARAD noted that the area over which the respondent CAI conducted quarrying activities had not been cultivated by any of the members of the PBFAI, and permitted the grading and leveling activities thereon.

On April 16, 1996, the PARAD issued an order directing the provincial sheriff of Cavite to conduct a physical inventory of the permanent improvements introduced by each of the complainants consisting of fruits and other horticultural growths, in substitution of the *Barangay* Captain.

On July 15, 1996, the DAR Region IV issued a Cease and Desist Order against the respondents.[46] The defendants, in a Letter dated July 16, 1996, informed the DAR, Region IV Office, that the land subject of the cease and desist order was also subject of DARAB Case No. 0285-95 and, as such, was under the jurisdiction of PARAD Barbara Tan. The defendants, likewise, raised the issue of forum shopping, per our ruling in *Crisostomo v. SEC*.[47]

After due hearings, PARAD Barbara P. Tan rendered a Decision on August 8, 1996 in DARAB Case No. CA-0285-95 in favor of the defendants. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered:

1. Finding Plaintiffs Domingo Banaag, Condrado Banaag, Leoncio Banaag, Herminia Demillo, Myrna Javier, Elena, Layaban, Maria Layaban and Oscar Layaban to have abandoned and renounced their tenancy rights over the land in question and barred from instiuting the instant complaint on the ground of *Res Judicata;*

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[46] *Id.* at 426.

[47] *Id.* at 426-427; 179 SCRA 146 (1989).

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2. Finding the remaining Twenty-Nine (29) other Plaintiffs not *bonfide* tenants but mere interlopers on the land in question and consequently not entitled to security of tenure;

3. Ordering the instant complaint DISMISSED for lack of merit.

No pronouncement as to damages, attorney's fees, litigation expenses and cost of suit.[48]

The PARAD held that the plaintiffs were bound by the order of dismissal of the RTC in Civil Case No. BCV-87-13. It declared that the plaintiffs in Civil Case No. BCV-87-13 were the kins, siblings or spouses of the complainants in the case before it. Moreover, the complainants had executed deeds of quitclaim or waiver covering the portions of the property which they purportedly occupied. Thus, the complainants had already waived their rights of possession and cultivation over the portions of the property which they claimed to be occupying.

As to the remaining complainants, the PARAD ruled that they failed to prove that their cultivation and possession, were based on a valid agricultural tenancy. It held that the complainants were merely farm helpers of their relatives. However, the PARAD ruled that it had no jurisdiction to resolve the issues of whether the property was covered by Rep. Act No. 6657 and exempted from the said coverage, or whether the conversion of the property to non-agricultural was legal and efficacious; hence, the PARAD declined to resolve the same.

Aggrieved, the plaintiffs interposed an appeal to the Department of Agrarian Reform Adjudication Board on the following grounds:

1. That errors in the findings of fact and conclusions of law were committed which, if not corrected, would cause grave and irreparable damage and injury to the plaintiffs/ complainants-appellants; and

2. That there is grave abuse of discretion on the part of the Provincial Agrarian Reform Adjudicator of Cavite.[49]

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[48] *Id.* at 447-448.

[49] *Id.* at 493.

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The appeal was docketed as DARAB Case No. 5191. The defendants, for their part, filed a motion for reconsideration of the decision, on the ground that it failed to rule that the order of conversion of then Agrarian Reform Minister Estrella merely confirmed the re-classification of the property, from agricultural to residential, made by the Municipal Council of Carmona, the HSRC and the HLURB as early as 1976, and that the PARAD failed to order the eviction of the complainants despite its finding that some had abandoned their tenancy rights by entering into a compromise settlement and executing quitclaims with the CAI. The respondents, thus, prayed:

. . . . . .

a. That the subject property has been reclassified as residential land as early as 30 May 1976;

b. That the Certificate of Registration No. RS-0495, dated 9 July 1977 and License to Sell LS-0449, dated 09 July 1977 were issued in compliance to NHA Circular No. 1, Series of 1976;

c. That the approval of the Consolidation Subdivision Plan and the consequent issuance of individual titles by the Bureau of Lands were made in compliance of the requirements of NHA Circular No. 1;

d. That the Order of Conversion dated 3 July 1979 was merely a confirmation of a 1976 valid re-classification of the subject property from agricultural to residential and said Order is still valid and subsisting;

e. That an Order of ejectment be issued against the complainants.

As a corollary, other reliefs which are just and proper under the premises are likewise prayed.[50]

The PARAD treated the motion as an appeal, and transmitted the same to the DARAB.[51]

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[50] *Id.* at 497.

[51] *Id.* at 499.

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On September 26, 1996, the plaintiffs Clarito Sanganbayan, Edgardo Uniforme and Francisco Joven, in consideration of ₱40,000, executed quitclaims, waiving their rights from the property in suit.[52] Likewise, plaintiffs Manuel Layaban, Dante Javier, Ederlinda dela Cruz, Conrado Banaag, Eduardo Sabalsa, Diosdado Canaria, Herminia Demillo, Elizabeth Cristo, Buena Layaban, Elena Layaban, Maria Layaban, Betty Banaag, Oscar Layaban, Carmelita Cañalete, Manuel Canaria, Alfredo Diaz, Alejandro Sanganbayan, Soledad Alcantara, Felicisimo Galzote, Vivencio Boral, Edilberto Banaag and Jose Canaria, executed quitclaims in favor of the CAI after receiving money from it.[53]

On October 16, 1996, the respondents filed a Motion to Lift *Status Quo* Order and Motion to Dismiss[54] alleging that the *status quo* order illegally extended the restraining order issued on September 13, 1996. It was also alleged that the complainants-appellants were not qualified beneficiaries of the CARL. The CAI asserted that the re-classification of the land use was valid and legal, and concluded that since the property was not agricultural, it was not covered by the CARL and, thus, beyond the jurisdiction of the DARAB. The CAI, thus, prayed:

> WHEREFORE, premises considered, it is respectfully prayed that the *status quo* order be immediately lifted and the writ of preliminary injunction applied for be denied for utter lack of merit by upholding the Decision of the Honorable Provincial Adjudicator dated 8 August 1996 with a modification which shall include an order of ejectment.[55]

In the meantime, more members of the PBFAI executed deeds of quitclaims on October 1, 1996, October 9, 1996, November 18, 1996, February 28, 1997 and March 6, 1997, respectively, all in favor of the respondent CAI over the property subject of their petition. All in all, during the period from September 26, 1996 to March 6, 1997,[56] twenty-five complainants

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[52] Exhibit "20"-"20-B"; Defendants' Folder of Exhibits, pp. 102-104.

[53] Records, Vol. IV, pp. 714-735.

[54] *Id.* at 524-541.

[55] *Id.* at 541.

[56] Records, Vol. IV, pp. 711-735.

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(members of PBFAI) executed separate deeds of quitclaims in favor of the CAI.[57] The foregoing notwithstanding, the DARAB rendered a Decision on September 2, 1997 reversing the decision of PARAD. The dispositive portion of the decision reads:

WHEREFORE, premises considered the challenged decision is hereby REVERSED and a new judgment is hereby rendered as follows:

1. Declaring the subject landholding to be within the coverage of Section 4 of R.A. 6657;

2. Ordering the PARO, MARO and all DAR officials concerned to take the necessary steps for the acquisition of the subject land pursuant to Administrative Order No. 9, Series of 1990; and

3. Ordering the PARO, MARO and all DAR officials concerned to distribute the subject land to qualified farmer-beneficiaries pursuant to Administrative Order No. 10, series of 1990, giving preference to the plaintiffs as actual occupants and cultivators of the subject land.[58]

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[57] The following complainants-members of PBFAI executed separate deeds of quitclaim in favor of the CAI:

1. Edgardo Uniforme
2. Clarito Sanganbayan
3. Francisco Joven
4. Manuel Layaban
5. Dante Javier
6. Ederlinda dela Cruz
7. Conrado Banaag
8. Eduardo Sabalsa
9. Diosdado Canaria
10. Herminia Demillo
11. Elizabeth Cristo
12. Buena Layaban
13. Elena Layaban
14. Maria Layaban
15. Betty Banaag
16. Oscar Layaban
17. Carmelita Cañalete
18. Manuel Canaria
19. Alfredo Diaz
20. Alejandro Sanganbayan
21. Soledad Alcantara
22. Felicisimo Galzote
23. Vivencio Boral
24. Edilberto Banaag
25. Jose Canaria

[58] *Id.* at 677-678.

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The respondents-appellees filed a motion for reconsideration[59] of the decision which was denied by the DARAB in a Resolution dated August 28, 1998.[60]

The Case in the Court of Appeals

Aggrieved, the CAI filed a petition for review in the Court of Appeals under Rule 45[61] of the Revised Rules of Court seeking the reversal of the Resolution dated August 28, 1998. The following issues were raised:

1. WHETHER OR NOT THE LAND IN SUIT IS COVERED BY CARP;
2. WHETHER OR NOT THE MEMBERS OF PBFAI NUMBERING 37 ARE LEGITIMATE TENANTS THEREOF;
3. WHETHER OR NOT THE DARAB APPRECIATED THE FACTS AND LAW OF THE CASE;
4. WHETHER OR NOT THE DARAB IN THE EXERCISE OF ITS POWERS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION.[62]

On March 15, 2000, the CA rendered a Decision reversing the decision of the DARAB and reinstating the decision of the PARAD, to wit:

WHEREFORE, the petition is GIVEN DUE COURSE, the assailed DARAB Decision is hereby REVERSED and SET ASIDE, while the PARO Decision is REINSTATED and AFFIRMED.[63]

The CA ruled that under Section 10 of Rep. Act No. 6657, all lands with eighteen percent (18%) slope and over, except

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[59] *Id.* at 683-704.

[60] *Id.* at 736-739.

[61] Treated as a Petition for Review under Rule 43 of the Rules of Court by the Court of Appeals.

[62] CA *Rollo*, p. 15.

[63] *Id.* at 173.

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those already developed, shall be exempt from the coverage of the said Act. The CA noted that the exception speaks of "18% in slope and undeveloped land." Per report of the PARAD, the property subject of the suit has an 18% slope and was still undeveloped; hence, it falls within the exemption.

Further, the CA held that as early as May 30, 1976, the Municipality of Carmona, Cavite, already reclassified the land as residential in Resolution No. 30, when it allowed the LDC to build low-cost housing projects in the subject area. According to the Court, the ruling in *Fortich v. Corona*[64] and reiterated in *Province of Camarines Sur, et al. v. Court of Appeals*,[65] settled is the rule that *local government units need not obtain the approval of DAR to convert or reclassify lands from agricultural to non-agricultural use.* Thus, the subject land was validly declared residential since 1976 by competent authority through *Kapasiyahang Bilang 30.* As such, the DARAB erred in ruling that the land in suit was still covered by Rep. Act No. 6657. Consequently, since the subject land is not agricultural and not covered by the CARL, the PBFAI members could not be considered tillers/beneficiaries thereof.[66]

Aggrieved, the PBFAI filed a petition for review under Rule 45 of the Rules of Court on April 11, 2000 before this Court. For its part, DARAB filed a motion for extension of time to file a petition for the reversal of the decision in CA-GR SP No. 49363. The same was docketed as G.R. No. 142980. On May 11, 2000, the DARAB manifested that it was adopting as its own the petition for review filed by PBFAI. In our Resolution dated June 28, 2000, we granted the motion of the DARAB and ordered the consolidation of G.R. Nos. 142980 and 142359.

The Issues

The core issues for resolution are the following: (1) whether the property subject of the suit is covered by Rep. Act No. 6657,

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[64] 298 SCRA 678 (1998).

[65] 222 SCRA 173 (1993).

[66] CA *Rollo*, pp. 172-173.

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the Agrarian Reform Law (CARL); (2) whether the DARAB had original and appellate jurisdiction over the complaint of the petitioner PBFAI against the private respondent; (3) whether the petitioners-members of the PBFAI have a cause of action against the private respondent for possession and cultivation of the property in suit; (4) whether the dismissal by the RTC of the complaint in Civil Case No. BCV-87-13 is a bar to the complaint of the petitioners-members of the PBFAI; and (5) whether the appellate court committed a reversible error in dismissing the petition for review in CA-G.R. SP No. 49363.

It is well-settled that in a petition for review on *certiorari* under Rule 45 of the Rules of Court, only questions of law may be raised.[67] We have time and again ruled that the factual findings of fact by administrative agencies are generally accorded great respect, if not finality, by the courts[68] because of the special knowledge and expertise of administrative departments over matters falling under their jurisdiction.[69] However, due to the divergence of the findings of the PARAD, on the one hand, and the DARAB on the other, and considering the findings of the DARAB and the Court of Appeals, we are constrained to review the records and resolve the factual and the legal issues involved.

On the first and second issues, the petitioners contend that the property subject of the suit is agricultural land; hence, covered by the CARL, more particularly, Rep. Act No. 6657. They assert that the reclassification of the property made by the Municipal Council of Carmona, Cavite, under Kapasiyahang Blg. 30 on May 30, 1976 was subject to the approval of the HSRC, now the HLURB, as provided for by Section 5 of Executive Order No. 648.[70] Since there was no such approval, the said resolution of the Municipal Council of Carmona was ineffective. The petitioners aver that, the appellate court's reliance on the ruling

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[67] *Calvo v. Vergara*, 372 SCRA 650 (2001).

[68] *Ibid.*

[69] *Palele v. Court of Appeals*, 362 SCRA 141 (2001).

[70] E.O. No. 648 was approved on February 7, 1981.

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of this Court in *Province of Camarines Sur v. Court of Appeals, et al.*[71] is misplaced because the said case involves the power of local government units to initiate condemnation proceedings of properties for public use or purpose. They argue that under Section 65 of Rep. Act No. 6657, the DAR is vested with exclusive authority to reclassify a landholding from agricultural to residential. The petitioners submit that the exclusive authority of the DAR is not negated by Section 20 of Rep. Act No. 7160, otherwise known as the Local Government Code of 1991. They also insist that the conversion of the property under Kapasiyahang Blg. 30 of the Municipal Council of Carmona on May 30, 1976, was subject to the approval of the DAR, conformably to DOJ Opinion No. 44, Series of 1990. Moreover, the development of the property had not yet been completed even after Rep. Act No. 6657 took effect. Hence, it was incumbent upon the respondent to secure an exemption thereto, after complying with DAR Administrative Order No. 6, Series of 1994.

In its Comment on the petition, the respondent CAI asserts that the property was validly reclassified by the Municipal Council of Carmona on May 30, 1976, pursuant to its authority under Section 3, Rep. Act No. 2264, otherwise known as the Local Autonomy Act of 1959. Until revoked, the reclassification made by the council remained valid. Per DOJ Opinion No. 40, Series of 1990, the private respondent was not required to secure clearance or approval from the DAR since the reclassification took place on June 15, 1988, when Rep. Act No. 6657 took effect. The respondent asserts that it had complied with all the requirements under P.D. No. 957, as amended.

The respondent contends that, aside from the Municipal Council of Carmona, the Secretary of Agrarian Reform and administrative agencies of the government such as the NHA, the Bureau of Lands, the HSRC, and the HLURB, found the property unsuitable for agricultural purposes. The respondent asserts that the petitioners-individuals are mere squatters and not tenants on the property of the private respondent. Hence, the PARAD had no jurisdiction

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[71] 222 SCRA 173 (1993).

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over the petition of the PBFAI, as well as the individual petitioners. Consequently, the DARAB had no appellate jurisdiction over the appeals from the decision of the PARAD.

The Court's Ruling

The contention of the petitioners has no merit.

Under Section 3(c) of Rep. Act No. 6657, agricultural lands refer to lands devoted to agriculture as conferred in the said law and not classified as industrial land. Agricultural lands are only those lands which are arable or suitable lands that do not include commercial, industrial and residential lands.[72] Section 4(e) of the law provides that it covers all private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon. Rep. Act No. 6657 took effect only on June 15, 1988. But long before the law took effect, the property subject of the suit had already been reclassified and converted from agricultural to non-agricultural or residential land by the following administrative agencies: (a) the Bureau of Lands, when it approved the subdivision plan of the property consisting of 728 subdivision lots; (b) the National Planning Commission which approved the subdivision plan subdivided by the LDC/CAI for the development of the property into a low-cost housing project; (c) the Municipal Council of Carmona, Cavite, when it approved Kapasiyahang Blg. 30 on May 30, 1976; (d) Agrarian Reform Minister Conrado F. Estrella, on July 3, 1979, when he granted the application of the respondent for the development of the Hakone Housing Project with an area of 35.80 hectares upon the recommendation of the Agrarian Reform Team, Regional Director of Region IV, which found, after verification and investigation, that the property was not covered by P.D. No. 27, it being untenanted and not devoted to the production of palay/or corn and that the property was suitable for conversion to residential subdivision; (e) by the Ministry of Local Government and Community Development;

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[72] *Luz Farms v. Secretary of the Department of Agrarian Reform*, 192 SCRA 51 (1990).

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(f) the Human Settlements Regulatory Commission which issued a location clearance, development permit, Certificate of Inspection and License to Sell to the LDC/private respondent; and, (g) the Housing and Land Use Regulatory Board which also issued to the respondent CAI/LDC a license to sell the subdivision lots.

In issuing a location clearance, a development permit, a certificate of inspection over the housing project, and a license to sell the subdivision lots in favor of LDC/CAI pursuant to its charter, the HSRC approved and confirmed the reclassification and conversion of the land made by the Municipal Council of Carmona and Agrarian Reform Minister Estrella.

In *Natalia Realty Inc. and Estate Developers and Investors Corp. v. Department of Agrarian Reform, et al.,*[73] we held, thus:

> We now determine whether such lands are covered by the CARL. Section 4 of R.A. 6657 provides that the CARL shall "cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands." As to what constitutes "agricultural land" 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 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

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[73] 225 SCRA 278 (1993).

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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.*[74]

Our ruling in *Natalia Realty, Inc. v. DAR* was reiterated in *National Housing Authority v. Allarde*,[75] and *Sta. Rosa Realty Development Corporation v. Court of Appeals*,[76] where we stated, *viz:*

The authority of the municipality of Cabuyao, Laguna to issue zoning classification is an exercise of its police power, not the power of eminent domain. "A zoning ordinance is defined as a local city or municipal legislation which logically arranges, prescribed, defines and apportions a given political subdivision into specific land uses as present and future projection of needs.

Section 3 of Rep. Act No. 2264,[77] amending the Local Government Code, specifically empowers municipal and/or city councils to adopt zoning and subdivision ordinances or regulations in consultation with the National Planning Commission. A zoning ordinance prescribes, defines, and apportions a given political subdivision

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[74] *Ibid.* (Italics ours.)

[75] 318 SCRA 22 (1999).

[76] 367 SCRA 175 (2001).

[77] *Power to adopt zoning and planning ordinances.* — Any provision of law to the contrary notwithstanding, Municipal Boards or City Councils in municipalities are hereby authorized to adopt zoning and subdivision ordinances or regulations for their respective cities and municipalities subject

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into specific land uses as present and future projection of needs.[78] The power of the local government to convert or reclassify lands to residential lands to non-agricultural lands reclassified is not subject to the approval of the Department of Agrarian Reform.[79] Section 65 of Rep. Act No. 6657 relied upon by the petitioner applies only to applications by the landlord or the beneficiary for the conversion of lands previously placed under the agrarian reform law after the lapse of five years from its award. It does not apply to agricultural lands already converted as residential lands prior to the passage of Rep. Act No. 6657.[80]

When Agrarian Reform Minister Conrado F. Estrella confirmed the reclassification of the property by the Municipal Council of Carmona to non-agricultural land when he approved, on July 3, 1979, the application of the private respondent/LDC for the conversion of 35.80 hectares of the property covered by TCT No. 62972 into non-agricultural land, he did so pursuant to his authority under Rep. Act No. 3844, as amended, by P.D. No. 815 and P.D. No. 946.[81]

It bears stressing that in his Order, the Agrarian Reform Minister declared that the property was not tenanted and not devoted to the production of palay and/or corn, and that the land was suitable for conversion to a residential subdivision. The order of the Minister was not reversed by the Office of the President; as such, it became final and executory. By declaring in its Decision of September 2, 1997, that the property subject of the suit, was agricultural land, the petitioner DARAB thereby reversed the Order of Agrarian Reform Minister Estrella, issued almost eighteen (18) years before, and nullified Resolution No.

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to the approval of the City Mayor or Municipal Mayor, as the case may be. Cities and municipalities may, however, consult the National Planning Commission on matters pertaining to planning and zoning.

[78] Section 4(b) of P.D. No. 449.

[79] *Fortich v. Corona*, 298 SCRA 678 (1998).

[80] *Province of Camarines Sur v. Court of Appeals*, 222 SCRA 173 (1993).

[81] *Ortigas & Co., Limited Partnership v. Feati Bank and Trust Co.*, 94 SCRA 533 (1979).

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30 of the Municipal Council of Carmona, approved twenty-one (21) years earlier, on May 30, 1976, as well as the issuances of the NHA, the HSRC, the HLURB, the Ministry of Local Government and the National Planning Commission. Thus, the petitioner DARAB acted with grave abuse of its discretion amounting to excess or lack of jurisdiction.

The failure of the respondent to complete the housing project before June 15, 1988, even if true, did not have the effect of reverting the property as agricultural land.

The petitioners' reliance on DOJ Opinion No. 44, Series of 1990 and DAR Administrative Order No. 6, Series of 1994 is misplaced. 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.

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

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> 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.

With our finding that the property subject of the suit was classified as residential land since 1976, the DARAB had no original and appellate jurisdiction over the property subject of the action of the petitioner PBFAI and its members. Consequently, the DARAB should have ordered the dismissal of the complaint.

The jurisdiction of a tribunal or *quasi-judicial* body over the subject matter is determined by the averments of the complaint/petition and the law extant at the time of the commencement of the suit/complaint/petition.[82] All proceedings before a tribunal or *quasi-judicial* agency bereft of jurisdiction over the subject matter of the action are null and void.[83]

Section 1, Rule II of the Revised Rules of Procedure of the DARAB provides that:

> SECTION 1. *Primary. Original and appellate jurisdiction* — The Agrarian Reform Adjudication Board shall have primary jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes, cases, controversies, and matters or incidents involving the implementation of the Comprehensive Agrarian Reform Program under Republic Act No. 6657, Executive Order Nos. 229, 228 and 129-A, Republic Act No. 3844 as amended by Republic Act No. 6389, Presidential Decree No. 27 and other agrarian laws and their implementing rules and regulations.

Section 3(d) of Rep. Act No. 6657 defines an agrarian dispute as:

> (d) *Agrarian Dispute* refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers associations or representation of persons negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements.

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[82] *Mercado v. Judge Ubay*, 187 SCRA 719 (1990).

[83] *Javelosa v. Court of Appeals*, 265 SCRA 493 (1996).

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It includes any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee.

In *Monsanto v. Zerna*,[84] we held that for the DARAB to have jurisdiction over a case, there must exist a tenancy relationship between the parties. In order for a tenancy agreement to take hold over a dispute, it is essential to establish all the indispensable elements, to wit:

(1) The parties are the landowner and the tenant or agricultural lessee;
(2) The subject matter of the relationship is an agricultural land;
(3) There is consent between the parties to the relationship;
(4) The purpose of the relationship is to bring about agricultural production;
(5) There is personal cultivation on the part of the tenant or agricultural lessee; and
(6) The harvest is shared between the landowner and the tenant or agricultural lessee.[85]

There is no allegation in the complaint of the petitioner PBFAI in DARAB Case No. CA-0285-95 that its members were tenants of the private respondent CAI. Neither did the petitioner adduce substantial evidence that the private respondent was the landlord of its members from 1961, nor at any time for that matter. Indeed, as found by the PARAD:

Moreover, their waiver of rights constitutes abandonment of their rights of possession and cultivation which may yet be borne out of a legitimate tenancy relationship. Their re-entry or continuous possession and cultivation of the land in question without the landowner's knowledge and/or consent negates the existence of tenancy relationship. Since security of tenure is a right to which only a bona fide tenant farmer is entitled their lack of such tenurial status denies them of its exercise and enjoyment.

As to the remaining twenty and more other complainants, it is unfortunate that they have not shown that their cultivation, possession and enjoyment of the lands they claim to till have been by authority of a valid contract of

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[84] 371 SCRA 664 (2001).

[85] *Almuete v. Andres*, 369 SCRA 619 (2001).

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agricultural tenancy. On the contrary, as admitted in their complaint a number of them have simply occupied the premises in suit without any specific area of tillage being primarily mere farm helpers of their relatives. Banking on their application for CARP coverage still awaiting action and disposition in some DAR operations office, these complainants have tenaciously held on to their occupied areas in the hope of eventual redemption under the Comprehensive Agrarian Reform Program. . . .[86]

Since the members of the petitioner PBFAI were not the tenants of the private respondent CAI, the petitioners and its members had no cause of action against the private respondent for possession of the landholding to maintain possession thereof and for damages. Besides, when the complaint was filed, twenty-five (25) of the thirty-seven (37) members of the petitioners had already executed separate deeds of quitclaim in favor of the private respondent CAI over the portions of the landholding they respectively claimed, after receiving from the private respondent CAI varied sums of money. In executing the said deeds, the members of the petitioner PBFAI thereby waived their respective claims over the property. Hence, they have no right whatsoever to still remain in possession of the same.

IN LIGHT OF THE FOREGOING, the petitions are *DENIED*. The assailed decision of the Court of Appeals is *AFFIRMED WITH MODIFICATIONS*. The complaint of the petitioner PBFAI in DARAB Case No. CA-0285-95 is *DISMISSED*. The counterclaim of the private respondent for damages in DARAB Case No. CA-0285-95 is, likewise, *DISMISSED*. The thirty-seven (37) members of the petitioner PBFAI and all those occupying the property subject of the complaint in DARAB Case No. CA-0285-95 in their behalf are *ORDERED* to vacate the landholding.

SO ORDERED.

Quisumbing, Austria-Martinez, and *Tinga, JJ.*, concur.

Puno, J. (*Chairman*), on official leave.

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[86] Records, Vol. IV, p. 485.