Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

FROILAN NAGAÑO, NIÑA PAULENE NAGAÑO, AND TERESITA FAJARDO,
Petitioners,

- *versus* -

LUIS TANJANGCO, ANTONIO ANGEL TANJANGCO, TERESITA TANJANGCO-QUAZON, AND BERNARDITA LIMJUCO,
Respondents.

G.R. No. 204218

Present:

LEONEN, *J.*,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ, J. Y., *JJ.*

Promulgated:

May 12, 2021
MisDCBatt

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DECISION

HERNANDO, *J.*:

This Petition for Review on *Certiorari*[1] assails the June 29, 2012 Decision[2] and the October 23, 2012 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 120994.

The assailed Decision reinstated[4] the October 1, 2009[5] and June 16, 2010[6] Resolutions of the Secretary of the Department of Agrarian Reform (DAR),[7] which granted the application for retention filed by respondents Luis Tanjangco

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1 *Rollo*, pp. 3-20.
2 *Id.* at 23-39; penned by Associate Justice Samuel H. Gerlan (now a Member of this Court) and concurred in by Associate Justices Amelita G. Tolentino and Ramon R. Garcia.
3 *CA rollo*, p. 285.
4 *Rollo*, p. 38.
5 Id. at 54-60.
6 Id. at 114-117.
7 Id. at 38.

(Luis), Antonio Tanjangco, Teresita Tanjangco-Quazon, and Bernardita Limjuco, and opposed by petitioners Froilan Nagaño (Froilan), Niña Paulene Nagaño, and Teresita Fajardo.[8] The assailed Resolution denied petitioners' Motion for Reconsideration for lack of merit.[9]

The Antecedents:

This case involves the question of whether respondents are entitled to retain five hectares each in a property covered by the land transfer program of the government under Presidential Decree No. 27[10] (PD 27), otherwise known as the Tenants Emancipation Decree.

The property is a 238.7949-hectare piece of land situated in Mambangan, San Leonardo, Nueva Ecija.[11]

On October 21, 1972, the subject property, then covered by Transfer Certificate of Title (TCT) No. 1221012, was placed under the land transfer program of the government pursuant to PD 27.[12] At that time, the subject property was registered under the names of the Spouses Jose Tanjangco and Anita Suntay (Spouses Tanjangco) with respect to 144 hectares, and under the names of respondents and their two other siblings, Federico S. Tanjangco (Federico) and Antonio S. Tanjangco (Antonio), who are not parties to this case, with respect to 95.5845 hectares.[13] Pursuant to PD 27, emancipation patents were issued in favor of the tenant-beneficiaries.[14]

On April 7, 1983, the 144-hectare portion allocated to the Spouses Tanjangco was transferred to respondents and their siblings, under TCT No. 177766.[15]

On October 5, 1999, respondents filed an application for retention of five hectares for each of them on the subject property pursuant to Republic Act No. 6657 (RA 6657), otherwise known as the Comprehensive Agrarian Reform Law of 1988, before the DAR Regional Office.[16] The areas sought to be retained by respondents included Lot Nos. 72, 77, 133, 134, 137, and 153 (subject lots), which petitioners claim as the transferees thereof.[17] Petitioners alleged that respondents were disqualified to retain, considering that they each already owned more than 24 hectares of land on the subject property, a disqualifying

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8 Id. at 59-60; 116.
9 Id. at 4.
10 Decreeing the Emancipation of Tenants from the Bondage of the Soil, Transfering to them the Ownership of the Land they Till and Providing the Instruments and Mechanism therefor (1972).
11 *Rollo*, p. 6.
12 Id. at 24.
13 Id.
14 Id.
15 Id.
16 Id.
17 Id. at 124-126. Petitioner Niña Paulene Nagaño's interest covers Lot No. 153; petitioner Teresita Fajardo, Lot No. 137; and petitioner Froilan Nagaño, Lot Nos. 72, 77, 133, and 134.

condition under PD 27 and its implementing rule DAR Administrative Order No. 04, series of 1991 (DAO 04-91), otherwise known as the Supplemental Guidelines Governing the Exercise of Retention Rights by Landowners under PD 27.[18]

During the pendency of the application for retention, respondents and their siblings executed a Deed of Partition dated July 4, 2000 which allocated 20 hectares to each respondent, 138.7949 hectares to Federico, and 20 hectares to Antonio.[19] Thus, on July 4, 2000, each respondent owned less than 24 hectares.

Ruling of the DAR Regional Director:

In an Order[20] dated January 12, 2004, the DAR Regional Director held that respondents were not entitled to retention because they each owned more than 24 hectares of tenanted rice or corn lands,[21] in violation of the first ground provided in DAO 04-91. The relevant portion of DAO 04-91 reads:

> 1. Landowners covered by PD 27 are entitled to retain seven hectares, except those whose entire tenanted rice and corn lands are subject of acquisition and distribution under Operation Land Transfer (OLT). **An owner of tenanted rice and corn lands may not retain these lands under the following cases:**
>
> **a. If he as of 21 October 1972 owned more than 24 hectares of tenanted rice or corn lands**; or
>
> b. By virtue of LOI 474, if he as of 21 October 1976 owned less than 24 hectares of tenanted rice or corn lands but additionally owned the following:
>
> Other agricultural lands of more than seven hectares, whether tenanted or not, whether cultivated or not, and regardless of the income derived therefrom; or
>
> Lands used for residential, commercial, industrial, or other urban purposes, from which he derives adequate income to support himself and his family. (Emphasis supplied)

The dispositive portion of the January 12, 2004 Order of the DAR Regional Director reads:

> WHEREFORE, premises considered, an ORDER is hereby issued:
>
> 1. DENYING the application for retention of the herein applicants, Luis Tanjan[g]co, Antonio Angel Tanjan[g]co, Teresita Tanjan[g]co-Quazon and

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[18] Id. at 8-12.
[19] Id. at 24.
[20] Id. at 40-41; penned by Regional Director Narciso B. Nieto.
[21] Id. at 41.

Bernardita Tanjan[g]co-Limjuco, over the property embraced by TCT No. T-177766, with an area of 238.7949 hectares, more or less, situated in Brgy, Mambangan, San Leonardo, Nueva Ecija, for lack of merit; and

2. AFFIRMING the coverage of the property under PD 27.

SO ORDERED.[22]

Respondents moved for a reconsideration but it was denied by the DAR Regional Director in his February 27, 2004 Order.[23] Thus, respondents appealed to the DAR Secretary.[24]

Ruling of the DAR Secretary:

The DAR Secretary, in his March 26, 2009 Order,[25] affirmed the DAR Regional Director's ruling, but on a different ground, *i.e.,* respondents each owned more than seven hectares of other agricultural lands, thereby disqualifying them from retention under the second ground,[26] as provided in DAO 04-91.[27]

The dispositive portion of the March 26, 2009 Order reads:

WHEREFORE, premises considered, the instant Appeal is hereby DENIED. Thus, the Order dated January 12, 2004, issued by the Regional Director of DAR Regional Office-III is hereby AFFIRMED.

SO ORDERED.[28]

Respondent Luis moved for reconsideration of the March 26, 2009 Order of the DAR Secretary.[29] In his October 1, 2009 Resolution,[30] the DAR Secretary granted the motion and reversed and set aside his March 26, 2009 Order.[31]

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22 Id.
23 Id. at 45-46; penned by Regional Director Narciso B. Nieto.
24 Id. at 26.
25 Id. at 48-51; penned by Secretary Nasser C. P. Pangandaman.
26 The second ground provides:

An owner of tenanted rice and corn lands may not retain these lands under the following cases:

x x x x

b. By virtue of LOI 474, if he as of 21 October 1976 owned less than 24 hectares of tenanted rice or corn lands but additionally owned the following:

Other agricultural lands of more than seven hectares, whether tenanted or not, whether cultivated or not, and regardless of the income derived therefrom; or

Lands used for residential, commercial, industrial, or other urban purposes, from which he derives adequate income to support himself and his family.

27 *Rollo,* pp. 50-51.
28 Id. at 51.
29 Id. at 62-64.
30 Id. at 54-60; penned by Secretary Nasser C. Pangandaman.
31 Id. at 59.

In ruling that respondents were entitled to retention, the DAR Secretary noted that landowners whose lands were covered by PD 27, such as respondents, were allowed to retain five hectares of compact and contiguous land under Section 6 of RA 6657.[32] Since respondents complied with the "compact and contiguous" requirement, they were held to be entitled to retention.[33]

The dispositive portion of the October 1, 2009 Resolution reads:

> **WHEREFORE,** premises considered, the motion for reconsideration is **GRANTED**. The assailed Order dated 26 March 2009 is **REVERSED AND SET ASIDE** and a new Order is issued thus:
>
> 1. **GRANTING** the application of Luis Tanjangco to retain Lot Nos. 76, 77, 133 and 134, with an aggregate area of five (5) hectares, to be taken from the land covered by TCT No. NT-177766 located in Brgy. Mambangan, San Leonardo, Nueva Ecija;
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> 2. **GRANTING** the application of Bernardita Tanjangco-Limjuco to retain Lot Nos. 71, 72, 76 and 153, with an aggregate area of five (5) hectares, to be taken from the land covered by TCT No. NT-177766 located in Brgy. Mambangan, San Leonardo, Nueva Ecija;
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> 3. **GRANTING** the application of Teresita Tanjangco-Quason to retain Lot Nos. 67, 68, 69 and 137, with an aggregate area of five (5) hectares, to be taken from the land covered by TCT No. NT-177766 located in Brgy. Mambangan, San Leonardo, Nueva Ecija;
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> 4. **GRANTING** the application of Antonio Angel Tanjangco to retain Lot Nos. 70 and 71, with an aggregate area of five (5) hectares, to be taken from the land covered by TCT No. NT-177766 located in Brgy. Mambangan, San Leonardo, Nueva Ecija.
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> **SO ORDERED.**[34]

Petitioners filed a motion for reconsideration of the October 1, 2009 Resolution,[35] which was, however, denied by the DAR Secretary in his June 16, 2010 Resolution[36] for being a prohibited pleading under DAR Administrative Order No. 03, series of 2003 (DAO 03-03), otherwise known as Rules for Agrarian Law Implementation Cases.[37] Thus, petitioners appealed to the Office of the President.[38]

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32 Id. at 57.
33 Id. at 58.
34 Id. at 59-60.
35 Id. at 28.
36 Id. at 114-117.
37 Id.
38 Id. at 29.

Ruling of the Office of the President:

In its March 10, 2011 Decision,[39] the Office of the President reinstated the January 12, 2004 Order of the DAR Regional Director and the March 26, 2009 Order of the DAR Secretary which respectively denied and affirmed the denial of respondents' application for retention.[40] The Office of the President held that respondents were not entitled to retention since they each owned more than 24 hectares of tenanted rice or corn lands as of October 21, 1972 and they each owned other agricultural lands of more than seven hectares, both conditions disqualifying each of them to exercise the right to retain under DAO 04-91.[41]

The dispositive portion of the March 10, 2011 Decision reads:

> **WHEREBY**, premises considered, the instant appeal is hereby **GRANTED**. The resolutions dated October 1, 2009 and June 16, 2010 of the DAR are hereby **REVERSED** and **SET ASIDE**. The Order dated January 12, 2004 of Regional Director of DAR Regional Office-III and the Order dated March 26, 2009 of the DAR Secretary are hereby **REINSTATED**.
>
> **SO ORDERED.**[42]

Respondents filed a motion for reconsideration,[43] which was, however, denied by the Office of the President in its undated Resolution.[44]

Ruling of the Court of Appeals:

The appellate court reinstated the October 1, 2009 and June 16, 2010 Resolutions of the DAR Secretary, which respectively granted and affirmed the grant of respondents' application for retention,[45] on the basis of the following:

First, petitioners' appeal before the Office of the President was belatedly filed.[46] Thus, the October 1, 2009 Resolution of the DAR Secretary, which granted respondents' application for retention, became final and executory.[47]

Second, setting technicality aside, petitioners were without personality to oppose the application for retention because they were illegal transferees of the subject lots.[48]

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[39] Id. at 140-143.
[40] Id. at 143.
[41] Id. at 142-143.
[42] Id. at 143.
[43] Id. at 30.
[44] Id. at 145; signed by Executive Secretary Paquito N. Ochoa, Jr., by authority of the President.
[45] Id. at 38.
[46] Id. at 31-32.
[47] Id.
[48] Id. at 32-35.

Third, while DAO 04-91 prohibited retention by a landowner who owned more than 24 hectares of tenanted rice or corn lands as of October 21, 1972, such prohibition did not apply to respondents since on that date, respondents and their siblings were co-owners of 95.5845 hectares only under TCT No. 1221012, each owning less than 24 hectares of land on the subject property.[49] It was only on April 7, 1983 that the portion allocated to Spouses Tanjangco was transferred to respondents and their siblings under TCT No. 177766. In any case, the subject property was already partitioned on July 4, 2000, with less than 20 hectares allocated to each respondent.[50]

The dispositive portion of the assailed Decision reads:

> **WHEREFORE**, premises considered, the instant petition is **GRANTED**. The assailed Decision, dated 10 March 2011, as well as the undated Resolution, rendered by the Office of the President in OP Case No. 10-G-361 are hereby **REVERSED and SET ASIDE**. The Resolutions, dated 1 October 2009 and 16 June 2010, issued by the DAR Secretary are hereby **REINSTATED**.
>
> **SO ORDERED.**[51]

Petitioners moved for reconsideration[52] which was, however, denied by the appellate court in its assailed Resolution.[53]

Hence, this Petition.

Issues

1. Whether petitioners are real parties in interest;
2. Whether the appeal before the Office of the President was timely filed; and
3. Whether respondents are entitled to retention.

Our Ruling

We deny the Petition.

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49 Id. at 35.
50 Id.
51 Id. at 38.
52 Id. at 5.
53 Id. at 44.

Petitioners are not real parties in interest.

In its assailed Decision, the appellate court held that petitioners were not real parties in interest since the transfers to them of the subject lots were made in violation of PD 27, which prohibited any transfer of title to covered lands *except* by hereditary succession or to the government.[54]

On the other hand, petitioners insist that they are real parties in interest[55] since they are the possessors of the subject lots, as well as the ones who paid for the subject lots' conversion to subdivision units and a fishpond.[56]

We note, however, that petitioners' argument is not supported by any evidence on record. There is no proof that they are the current possessors of the subject lots, or that they paid for the conversion thereof. As the records show, and as petitioners expressly admit,[57] *none* of the subject lots are in *any* of their names.[58] For this reason, a ruling on this point is unnecessary.

Petitioner Froilan adds in his Reply[59] to respondents' Comment[60] that his interest in Lot Nos. 77, 133 and 134 stems from his purchase of said lots from the transferees of the original tenant-beneficiaries.[61] According to him, the transfers were valid by virtue of Executive Order No. 228[62] (EO 228) and this Court's ruling in *Heirs of Paulino Atienza v. Espidol (Heirs of Atienza)*,[63] which supposedly rendered ineffective the prohibition on transfer under PD 27.[64]

However, this argument was raised only in the Reply to respondents' Comment, which petitioner Froilan is not allowed to do.[65] "The purpose of a reply is to deny or allege facts in denial of new

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[54] Id. at 32-35.
[55] Id. at 13.
[56] Id. at 6. Paragraph 4.2 of the Petition provides:
> 4.2. Lots 153, 72, 77, and 137 were all converted to residential lands particularly subdivision units under the name St. Leonard Properties **at the expense of petitioners**; [w]hile Lots 133 and 134 were converted to a fishpond **at the expense of petitioner Froilan Nagano**. (Emphasis supplied)

[57] Id. at 6.
[58] Id. at 6, 33-34.
[59] Id. at 6, 214-231.
[60] Id. at 6, 191-201.
[61] Id. at 6, 220-222. According to petitioner Froilan Nagaño's Reply, he bought the following lots: Lot No. 134 from Maricar A. Domingo, who purchased the same from the original tenant-beneficiary Arsenio Garcia; Lot No. 77 from Maricar A. Domingo (but there is no reference to the original tenant-beneficiary of Lot No. 77); and Lot No. 133 from Ruthgardo T. Aguilar, who in turn bought the same from the original tenant-beneficiary Edgardo F. Yacat. There was no mention of petitioner Froilan Nagaño's source of interest in Lot No. 72.
[62] Declaring Full Land Ownership to Qualified Farmer Beneficiaries Covered by Presidential Decree No. 27; Determining the Value of Remaining Unvalued Rice and Corn Lands subject to P.D. No. 27; And Providing for the Manner of Payment by the Farmer Beneficiary and Mode of Compensation to the Landowner (1987).
[63] 642 Phil. 408 (2010).
[64] *Rollo*, pp. 222-223
[65] *Gipa v. Southern Luzon Institute*, 736 Phil. 515, 530-531 (2014).

matters alleged by way of defense in the answer,"[66] or respondents' comment in this case. It is not the function of a reply to introduce new arguments which would offend the basic principles of fair play and due process.[67]

Nevertheless, for the guidance of the Bench, the Bar, and the public, We hold that the prevailing rule today is that the transfer of lands covered by PD 27 is null and void, except when made to the heirs of the beneficiaries by hereditary succession or to the government.[68]

PD 27 expressly provides that "[t]itle to land acquired pursuant to [PD 12] shall not be transferable except by hereditary succession or to the Government x x x."

Any transfer made by a tenant-beneficiary in violation of PD 27 is void.[69] This is "to guarantee the continued possession, cultivation and enjoyment by the beneficiary of the land that he tills x x x."[70] Thus, in a number of cases,[71] We struck down contracts of sale executed in violation of PD 27.[72]

Here, petitioner Froilan insists that by virtue of EO 228, the restriction under PD 27 ceased to be absolute.[73] This is because under Section 6 of EO 228, "[o]wnership of lands acquired by farmer-beneficiary *may be transferred* after full payment of amortizations."[74] And since it can be assumed that the beneficiaries of Lot Nos. 77, 133 and 134 already fully paid the amortizations, the transfers of said lots supposedly were valid.[75]

However, the issue of whether EO 228 rendered the prohibition of transfers in PD 27 ineffective was already resolved in *Estate of Vda. de Panlilio v.*

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66 Id. at 530, citing *Magnolia Corporation v. National Labor Relations Commission*, 320 Phil. 408 (1995).

67 Id. at 530-531.

68 *Estate of Vda. de Panlilio v. Dizon*, 562 Phil. 518, 550-552. (2007).

69 Under Article 5 of the Civil Code, acts executed against the provisions of mandatory or prohibiting laws shall be void. *See Estate of Vda. de Panlilio v. Dizon, supra* at 552.

70 *Heirs of Asuncion v. Raymundo*, 693 Phil. 92, 103 (2012), citing *Toralba v. Mercado*, 478 Phil. 563, 571 (2004).

71 *Saguinsin v. Liban*, 789 Phil. 374 (2016); *Torres v. Ventura*, 265 Phil. 99 (1990); *see Heirs of Asuncion v. Raymundo, supra.*

72 *Digan v. Malines*, 822 Phil. 220. 236 (2017), citing *Saguinsin v. Liban, supra.*

73 *Rollo*, pp. 222-223.

74 Emphasis supplied. EO 228 (1987), Sec. 6. It reads in full:

> Sec. 6. The total costs of the land including interest at the rate of six percent (6%) per annum with a two percent (2%) interest rebate for amortizations paid on time, shall be paid by the farmer-beneficiary or his heirs to the Land Bank over a period up to twenty (20) years in twenty (20) equal annual amortizations. Lands already valued and financed by the Land Bank are likewise extended a 20-year period of payment of twenty (20) equal annual amortizations. However, the farmer-beneficiary if he so elects, may pay in full before the twentieth year or may request the Land Bank to structure a repayment period of less than twenty (20) years if the amount to be financed and the corresponding annual obligations are well within the farmer's capacity to meet. Ownership of lands acquired by the farmer-beneficiary may be transferred after full payment of amortizations.

75 *Rollo*, pp. 222-223.

Dizon,[76] where We held that there is no inconsistency between PD 27 and EO 228:

> **EO 228 not inconsistent with PD 27 on prohibition of transfers**
>
> x x x x
>
> First of all, the provision in question is silent as to who can be the transferees of the land acquired through the CARP. The rule in statutory construction is that statutes in *pari materia* should be construed together and harmonized. **Since there appears to be no irreconcilable conflict between PD 27 and Sec. 6 of EO 228, then the two (2) provisions can be made compatible by maintaining the rule in PD 27 that lands acquired under said decree can only be transferred to the heirs of the original beneficiary or to the Government. Second, PD 27 is the specific law on agrarian reform while EO 228 was issued principally to implement PD 27.** This can easily be inferred from EO 228 which provided for the mode of valuation of lands subject of PD 27 and the manner of payment by the farmer-beneficiary and mode of compensation to the land owner. Third, implied repeals are not favored. A perusal of the aforequoted Sec. 6 of EO 228 readily reveals that it confers upon the beneficiary the privilege of paying the value of the land on a twenty (20)-year annual amortization plan at six percent (6%) interest per annum. He may elect to pay in full the installments or have the payment plan restructured. Said provision concludes by saying that after full payment, ownership of the land may already be transferred. **Thus, it is plain to see that Sec. 6 principally deals with payment of amortization and not on who qualify as legal transferees of lands acquired under PD 27. Since there is no incompatibility between PD 27 and EO 228 on the qualified transferees of land acquired under PD 27, ergo, the lands acquired under said law can only be transferred to the heirs of the beneficiary or to the Government for eventual transfer to qualified beneficiaries by the DAR pursuant to the explicit proscription in PD 27.**[77] (Emphasis supplied)

There is no incompatibility between PD 27 and EO 228 because EO 228 "deals with payment of amortization and not on who qualify as legal transferees of lands covered by PD 27."[78] Thus, the prevailing rule is that lands covered by PD 27 can only be validly transferred by hereditary succession or to the government.

Petitioner Froilan further invokes Our ruling in *Heirs of Atienza*[79] where We held that upon the enactment of EO 228, the restriction on transfer under PD 27 ceased to be absolute.[80]

However, *Heirs of Atienza* is not applicable in the instant case. The contract involved therein was a contract to sell, and not a contract of sale.[81] The

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[76] Supra note 66.
[77] Id. at 550-552.
[78] Id. at 552. *See Digan v. Malines*, *supra note* 70 where We held that a transfer made in favor of the actual tenant-tiller is also considered valid.
[79] Supra note 61.
[80] Id. at 415.
[81] *Heirs of Atienza v. Espidol, supra note* 61 at 412, 416.

distinction is important because there is no *transfer* of ownership in a contract to sell, unlike in a contract of sale where ownership is transferred to the buyer upon delivery of the land.[82] Thus, in *Heirs of Atienza,* the title to the property never left the hands of the original tenant-beneficiaries' heirs.[83]

More importantly, *Heirs of Atienza* was already superseded by later cases where We held that the prohibition in PD 27 stands.[84] In *Abella v. Heirs of San Juan*,[85] the most recent of these cases, We affirmed the lower court's finding that the transfer of the subject land was void considering that it was not covered by the exceptions in PD 12. We explained:

> Under PD 27 and the pronouncements of this Court, transfer of lands under PD 27 other than to successors by hereditary succession and the Government is void. A void or inexistent contract is one which has no force and effect from the beginning, as if it has never been entered into, and which cannot be validated either by time or ratification. No form of validation can make the void Agreement legal.[86]

The transfers of Lot Nos. 77, 133 and 134 being null and void, title to these lots never left the hands of the original beneficiaries or their heirs. They are the ones entitled to oppose the application for retention pursuant to Section 13.2, Rule III of DAO 03-03,[87] which expressly provides that only real parties in interest may file an opposition to any action. Accordingly, the DAR Regional Director and DAR Secretary correctly based their decisions only on the merits of the application for retention, and without any reference to petitioners' opposition or pleadings. Petitioners, who are strangers to this case, have no right to oppose respondents' application for retention.

The October 1, 2009 Resolution of the DAR Secretary which granted respondents' application for retention has become final

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82 Id. at 416.

83 Id.

84 *Saguinsin v. Liban, supra note* 69; *Abella v. Heirs of San Juan,* 781 Phil. 533 (2016); *see Heirs of Asuncion v. Raymundo, supra note* 68.

85 Supra at 533-550.

86 Id. at 546-547, citing *Torres v. Ventura, supra note* 69, *Estate of Vda. de Panlilio v. Dizon, supra note* 66, and *Francisco v. Herrera*, 440 Phil. 841 (2002).

87 DAO 03-03, Rule III, Sec. 13.2. It reads:

SECTION 13. *Commencement of an action.*

x x x x

13.2. *After issuance of notice of coverage* — Commencement shall be at the DAR Municipal Office (DARMO). When the applicant/petitioner commences the case at any other DAR office, the receiving office shall transmit the case folder to the DARMO or proper DAR office in accordance with the pertinent order and/or circular governing the subject matter. **Only the real-party-in-interest may file a protest/opposition** or petition to lift CARP coverage and may only do so within sixty (60) calendar days from receipt of the notice of coverage; a protesting party who receives the notice of coverage by newspaper publication shall file his protest / opposition / petition within sixty (60) calendar days from publication date; failure to file the same within the period shall merit outright dismissal of the case. (Emphasis supplied)

and executory, and therefore immutable.

Much of petitioner Froilan's Reply to respondents' Comment is devoted to a discussion on whether the October 1, 2009 Resolution of the DAR Secretary which granted respondents' application for retention has become final and executory.[88]

To recall, after the DAR Secretary affirmed the DAR Regional Director's denial of respondents' application for retention in his March 26, 2009 Resolution, respondent Luis moved for reconsideration thereof.[89] In response, the DAR Secretary, in its October 1, 2009 Resolution, resolved respondent Luis' motion for reconsideration and thereby granted the application for retention.[90] Subsequently, petitioners moved for reconsideration of the October 1, 2009 Resolution, instead of appealing directly to the Office of the President within 15 days, as provided under Section 32, Rule V of DAO 03-03.[91]

Thus, in its assailed Decision, the appellate court held that petitioners' motion for reconsideration did not toll the running of the period for filing the appeal before the Office of the President.[92] Consequently, when the 15-day period lapsed without petitioners filing an appeal thereto, the October 1, 2009 Resolution became final and executory.[93]

We agree with the pronouncement of the CA. Sec. 32 reads:

> SECTION 32. *Motion for Reconsideration*. A party may file only one (1) motion for reconsideration of the decision of the Secretary or deciding authority, and may do so only within a non-extendible period of fifteen (15) calendar days from receipt of the Secretary's decision, furnishing a copy of the motion to all other parties. The filing of the motion interrupts the running of the reglementary period within which to appeal. **Upon receipt of the resolution on the motion for reconsideration, the losing party may elevate the matter to the Office of the President (OP)**. (Emphasis supplied)

Sec. 32 is clear in that the remedy to the DAR Secretary's resolution of a motion for reconsideration filed by any party is to elevate the matter to the Office of the President. "[W]here the words of a statute are clear, plain, and free

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88 *Rollo*, pp. 214-219.
89 Id. at 62-64.
90 Id. at 54-60.
91 Id. at 28. We agree with both the Court of Appeals and petitioners that the relevant provision in this case is Section 32, Rule V of DAO 03-03, and not Section 24.2, Rule III thereof, which was cited by the DAR Secretary when it denied petitioners' motion for reconsideration in its June 16, 2010 Resolution. Sec. 32 covers cases where the DAR Secretary exercises exclusive original jurisdiction, while Sec. 24.2 covers cases where the DAR Secretary exercises appellate jurisdiction. Since this case originated from an application for retention filed before the DAR Regional Office-III, and appealed to the DAR Secretary, Sec. 32 applies.
92 Id. at 32.
93 Id.

from ambiguity, it must be given its literal meaning and applied without attempted interpretation."[94]

Hence, petitioners' recourse upon receipt of the October 1, 2009 Resolution (which resolved respondent Luis' motion for reconsideration of the March 26, 2009 Resolution) was to appeal said resolution to the Office of the President within 15 days. Petitioners failed to do this. As a result, the October 1, 2009 Resolution became final and executory.

Petitioner Froilan insists, however, that Sec. 32 allows one motion for reconsideration for *each* party, notwithstanding the DAR Secretary's resolution of the motion for reconsideration filed by the opposing party.[95] Thus, when petitioners exercised their right to file a motion for reconsideration, the reglementary period for their appeal before the Office of the President supposedly did not yet commence until they received the June 16, 2010 Resolution of the DAR Secretary resolving their motion for reconsideration.[96]

Petitioner Froilan is mistaken. While Sec. 32 allows *each* party to file a motion for reconsideration with respect to the decision of the DAR Secretary, once the latter resolves *any* or *both* motions filed, the remedy left to the losing party is that provided under Sec. 32, *i.e*, "[u]pon receipt of the resolution on the motion for reconsideration, x x x [to] elevate the matter to the Office of the President (OP)."

Thus, when the DAR Secretary issued the March 26, 2009 Order, both parties could have simultaneously filed a motion for reconsideration within 15 days from receipt thereof. Yet it was only respondent Luis who moved for a reconsideration.[97] Consequently, when the 15-day period for filing a motion for reconsideration lapsed without petitioners filing such motion, they were no longer allowed to do so. Their recourse was to appeal to the Office of the President.

A contrary interpretation will lead to a situation where the DAR Secretary, after resolving a motion for reconsideration, is required to once again reconsider its resolution on the prior motion for reconsideration. Not only will this unduly burden the DAR Secretary, but it is also obviously contrary to what is expressly provided under Sec. 32.

Because of the belated appeal before the Office of the President, the October 1, 2009 Resolution has become final and executory, and therefore,

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[94] *Republic v. Camacho*, 711 Phil. 80, 97 (2013), citing *National Food Authority v. Masada Security Agency, Inc.*, 493 Phil. 241, 250 (2005) and *PNB v. Garcia, Jr.*, 437 Phil. 289, 291 & 295 (2002).

[95] *Rollo*, pp. 214-219.

[96] Id.

[97] Understandably, it was only respondent Luis Tanjangco who moved for reconsideration because the March 26, 2009 Order was prejudicial to him. However, this did not preclude petitioners to move for partial reconsideration in case they were not completely satisfied with the March 26, 2009 Order.

immutable.[98] This, as well as petitioners' apparent lack of personality to oppose the application for retention, constrains Us to uphold the assailed Decision and Resolution of the appellate court.

This notwithstanding, We find a serious flaw as to the CA's finding that respondents are entitled to retention.

We consider the following laws and regulations:

First, PD 27 issued on October 21, 1972, decreed the emancipation of all tenant farmers of rice or corn lands under the land transfer program of the government. A covered landowner was allowed to retain an area of not more than seven hectares if his/her tenanted rice or corn lands do not exceed 24 hectares.[99]

Second, Letter of Instructions No. 474 (LOI 474) issued on October 21, 1976, limited the right of retention under PD 12 in that a landowner was no longer allowed to retain even if his/her tenanted rice or corn lands do not exceed 24 hectares, and if his/her aggregate landholdings, including those used for residential, commercial, industrial or other urban purposes, exceed seven hectares.[100]

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[98] *Torres v. Aruego,* 818 Phil. 524, 544 (2017).

[99] PD 27 (1972). It provides:

xxxx

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1 dated September 22, 1972, as amended do hereby decree and order the emancipation of all tenant farmers as of this day, October 21, 1972:

This shall apply to tenant farmers of private agricultural lands primarily devoted to rice and corn under a system of sharecrop or lease-tenancy, whether classified as landed estate or not;

The tenant farmer, whether in land classified as landed estate or not, shall be deemed owner of a portion constituting a family-size farm of five (5) hectares if not irrigated and three (3) hectares if irrigated;

In all cases, the landowner may retain an area of not more than seven (7) hectares if such landowner is cultivating such area or will now cultivate it;

xxxx (Emphasis supplied)

[100] LOI 474 (1976). It provides:

xxxx

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, do hereby order the following:

1. You shall undertake to place under the Land Transfer Program of the government pursuant to Presidential Decree No. 27, all tenanted rice/corn lands with areas of seven hectares or less belonging to landowners who own other agricultural lands of more than seven hectares in aggregate areas or lands used for residential, commercial, industrial or other urban purposes from which they derive adequate income to support themselves and their families.

xxxx

Third, RA 6657 issued on June 10, 1988, instituted a comprehensive agrarian reform program and modified the retention limits provided under PD 12 in that a landowner was allowed to retain five hectares and an additional three hectares for each child of the landowner, and provided that the area to be retained is compact and contiguous.[101]

Fourth, DAO 04-91 issued on April 26, 1991, provided the supplemental guidelines governing the exercise of retention rights by landowners under PD 27 and LOI 474. The relevant portion of DAO 04-91 reads:

> 1. Landowners covered by PD 27 are entitled to retain seven hectares, except those whose entire tenanted rice and corn lands are subject of acquisition and distribution under Operation Land Transfer (OLT). **An owner of tenanted rice and corn lands may not retain these lands under the following cases:**
>
> **a. If he as of 21 October 1972 owned more than 24 hectares of tenanted rice or corn lands**; or
>
> **b. By virtue of LOI 474, if he as of 21 October 1976 owned less than 24 hectares of tenanted rice or corn lands but additionally owned the following:**
>
> **Other agricultural lands of more than seven hectares, whether tenanted or not, whether cultivated or not, and regardless of the income derived therefrom; or**
>
> **Lands used for residential, commercial, industrial, or other urban purposes, from which he derives adequate income to support himself and his family**. (Emphasis supplied)

The appellate court held that while DAO 04-91 prohibited retention by a landowner who owned more than 24 hectares of tenanted rice or corn lands as of October 21, 1972, such prohibition did not apply to respondents since on that date, respondents and their siblings were co-owners of 95.5845 hectares only under TCT No. 1221012, each owning less than 24 hectares of land on the subject property.[102] It was only on April 7, 1983 that the portion allocated to

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[101] RA 6657 (1988), Sec. 6. It reads:

> SECTION 6. *Retention Limits.* — Except as otherwise provided in this Act, no person may own or retain, directly or indirectly, any public or private agricultural land, the size of which shall vary according to factors governing a viable family-size farm, such as commodity produced, terrain, infrastructure, and soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder, but **in no case shall retention by the landowner exceed five (5) hectares. Three (3) hectares may be awarded to each child of the landowner**, subject to the following qualifications: (1) that he is at least fifteen (15) years of age; and (2) that he is actually tilling the land or directly managing the farm: *Provided*, That landowners whose lands have been covered by Presidential Decree No. 27 shall be allowed to keep the areas originally retained by them thereunder: *Provided, further*, That original homestead grantees or their direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead.
>
> The right to choose the area to be retained, **which shall be compact or contiguous,** shall pertain to the landowner x x x. (Emphasis supplied)

[102] *Rollo,* p. 35.

Spouses Tanjangco was transferred to respondents and their siblings under TCT No. 177766. In any case, the subject property was already partitioned on July 4, 2000, with less than 20 hectares allocated to each of respondents.[103]

We disagree.

What is crucial here is the *coverage* of the application for retention. Respondents' application for retention pertained to areas in the *entire* 238.7949 hectares subject property, not just in the 95.5845-hectare portion originally allocated to them. By applying for retention of areas in the *entire* subject property, respondents exercised their rights as owners thereof. And being co-owners of 238.7949 hectares, each of them owned more than 24 hectares. Clearly, they are covered by the disqualification in DAO 04-91.

In other words, it does not matter that on October 21, 1972, respondents only co-owned 95.5845 hectares because in their application for retention, they included portions of 238.7949-hectare subject property.

Parenthetically, We note that there is no longer an issue as to the application of DAO 04-91 in this case where the retention was sought pursuant to RA 6657. It is settled that the right of retention under RA 6657 is subject to the restrictions provided in LOI 474.[104]

That respondents executed a Deed of Partition on July 4, 2000, which allocated to them less than 24 hectares each on the subject property, is irrelevant considering that it was executed *after* the application for retention was filed. What is important in this case is that when they filed the application for retention on October 5, 1999, they owned the *entire* subject property, and their application covered the *entire* subject property, not just 95.5845-hectare portion thereof. Thus, during their application for retention, respondents each owned more than 24 hectares of land on the subject property, resulting to their disqualification to retain under DAO 04-91.

However, in view of the finality of the October 1, 2009 Resolution, and petitioners' apparent lack of personality to oppose the application for retention, We have no other recourse but to deny the Petition. We cannot alter an immutable resolution in the absence of any recognized exception.[105] Neither can We extend any relief to strangers to this case.[106]

WHEREFORE, the instant Petition for Review on *Certiorari* is **DENIED**. The June 29, 2012 Decision of the Court of Appeals in CA-G.R. SP No. 120994 is hereby **AFFIRMED** insofar as it denied petitioners' appeal.

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[103] Id.

[104] *Heirs of Reyes v. Garilao,* 620 Phil. 303 (2009); *Pangilinan v. Balatbat,* 694 Phil. 605 (2012).

[105] *Gadrinab v. Salamanca,* 736 Phil. 279, 292-293 (2014), citing *FGU Insurance Corp. v. Regional Trial Court of Makati City, Branch 66,* 659 Phil. 117 (2011).

[106] *Ang v. Pacunio,* 763 Phil. 542, 549 (2015), citing *Liga v. Allegro Resources Corp.*, 595 Phil. 903, 911 (2008).

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

HENRI JEAN PAUL B. INTING
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice