



Republic of the Philippines  
 Supreme Court  
 Manila

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 Division Clerk of Court  
 Third Division

AUG 10 2016

THIRD DIVISION

FE B. SAGUINSIN,

G.R. No. 189312

Petitioner,

Present:

VELASCO, JR., J., *Chairperson*

PERALTA,

PEREZ,

REYES,\* and

JARDELEZA, JJ.

- versus -

AGAPITO LIBAN, CESARIO  
 LIBAN, EDDIE TANGUILAN,  
 PACENCIA MACANANG, ISIDRO  
 NATIVIDAD, TIMMY SIBBALUCA  
 and ISIDRO SIBBALUCA,

Respondents.

Promulgated:

July 11, 2016

x-----  
*[Signature]*  
 x-----

DECISION

JARDELEZA, J.:

This is a Petition for Review on *Certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> and Resolution<sup>3</sup> dated May 20, 2009 and August 25, 2009, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 98049. The CA affirmed the Decision<sup>4</sup> of the Office of the President dated December 28, 2006 in OP Case No. 06-H-301 which reversed and set aside the Orders of the Department of Agrarian Reform (DAR) Secretary dated June 28, 2005<sup>5</sup> and June 22, 2006<sup>6</sup> granting the application for retention of Isabel Sibbaluca (Isabel) as substituted by Fe Saguinsin (petitioner).

\* On Official Leave.

<sup>1</sup> *Rollo*, pp. 11-29.

<sup>2</sup> *Id.* at 31-46. Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Magdangal M. De Leon and Ramon R. Garcia concurring.

<sup>3</sup> *Id.* at 47.

<sup>4</sup> *Id.* at 113-116. Penned by Executive Secretary Eduardo R. Ermita.

<sup>5</sup> *Id.* at 95-101. Penned by Secretary Rene C. Villa.

<sup>6</sup> *Id.* at 105-107. Penned by OIC-Secretary Nasser C. Pangandaman.

*[Signature]*

### The Facts

On June 23, 1952, Cristino Sibbaluca (Cristino) purchased from one Pedro Espero a parcel of land with an area of 10.9524 hectares, located in Bacayan, Baggao, Cagayan.<sup>7</sup>

On October 21, 1972, Presidential Decree (PD) No. 27<sup>8</sup> was promulgated. Under this law, the Operation Land Transfer (OLT) was launched to implement and enforce the provisions on transferring ownership to qualified tenant-farmers or farmer beneficiaries of the rice or corn land they are cultivating under a system of sharecrop or lease tenancy, with the landowner having retention of not more than seven hectares of agricultural land.<sup>9</sup> Cristino's property was placed under the coverage of the OLT.

On March 21, 1975, Cristino sold seven hectares of the lot covered by Transfer Certificate of Title (TCT) No. T-1336 to Lito Sibbaluca<sup>10</sup> (Lito); and on October 12, 1976, he sold the remaining 3.9524 hectare property (property) to petitioner.<sup>11</sup> For the sale to petitioner, Cristino executed an Affidavit<sup>12</sup> certifying that the property was not tenanted (Affidavit of Non-Tenancy).

On December 4, 1987 and February 19, 1988, Emancipation Patents<sup>13</sup> (EPs) were issued in favor of the farmer-beneficiaries of the property including Agapito Liban, Cesario Liban, Frederito Tanguilan, Eustaquio Macanang, Jr., Pacita Vda. De Macanang, Isidro Natividad, Saturnino Sibbaluca and Isidro Sibbaluca.<sup>14</sup>

On May 24, 1991, Isabel, the widow of Cristino, filed an application for retention of the property<sup>15</sup> sold to petitioner under Republic Act (RA) No. 6657.<sup>16</sup> In her application, Isabel stated:

I have the honor to apply for retention of the landholding pursuant to R.A. 6657 particularly described as Title No. T-36360 situated in Bacagan, Baggao, Cagayan containing an area of 3.9524 hectares which said lot was sold by my late husband, Cristino Sibbaluca in favor of Fe

<sup>7</sup> Title to the property was transferred in Cristino's name, TCT No. T-1336. *Id.* at 32, 81-82; DAR records, pp. 171-172.

<sup>8</sup> Decreeing the Emancipation of Tenants from the Bondage of the Soil, Transferring to them the Ownership of the Land they Till and Providing the Instruments and Mechanism Therefor.

<sup>9</sup> *Taguinod v. Court of Appeals*, G.R. No. 154654, September 14, 2007, 533 SCRA 403, 405.

<sup>10</sup> *Rollo*, p. 82; DAR records, p. 170.

<sup>11</sup> *Rollo*, pp. 60, 82. TCT No. T-1336 was cancelled and TCT No. T-32688 was issued in favor of Lito Sibbaluca while TCT No. T-36360 was issued in favor of petitioner. See DAR records, p. 170; *rollo*, p. 61.

<sup>12</sup> *Id.* at 62.

<sup>13</sup> *Id.* at 117-136.

<sup>14</sup> *Id.* The farmer-beneficiaries or their successors-in-interest are the respondents in this case.

<sup>15</sup> *Rollo*, p. 63.

<sup>16</sup> The Comprehensive Agrarian Reform Law of 1988.

Sagionsin [*sic*] sometime in 1976 [*sic*] in [*sic*] contrary to the provision of P.D. No. 27.<sup>17</sup>

In a Resolution<sup>18</sup> dated October 7, 1991, the Provincial Agrarian Reform Office (PARO) recommended the following: (1) granting the application of Isabel; (2) causing the recall and cancellation of the Certificate of Land Transfer (CLT) and/or EPs awarded to the farmer-beneficiaries; and (3) the execution of a leasehold contract between the landowner and the farmer-beneficiaries.<sup>19</sup> The PARO ruled that the sale of the property to petitioner does not affect the coverage of the land under the OLT because the property still belonged to spouses Cristino and Isabel in 1972 when PD No. 27 took effect.<sup>20</sup>

In an Order<sup>21</sup> dated January 30, 1995, the DAR Regional Office (DARRO) OIC Director affirmed the PARO Order and authorized Isabel to withdraw any amortization deposited by the tenants to the Land Bank of the Philippines.<sup>22</sup> In addition, he declared the sale between Cristino and petitioner "null and void, x x x being contrary to the provisions of DAR Memo Circular No. 8, Series of 1974, which prohibits the transfer of ownership of tenanted rice/corn lands after October 21, 1972."<sup>23</sup> In the same Order, the DARRO Director stated that the Municipal Agrarian Reform Office (MARO) of Baggao, Cagayan placed the land under OLT "finding that [the property] is devoted to the production of palay and [is] tenanted x x x."<sup>24</sup>

Before the Order dated January 30, 1995 was issued, Isabel died and no heir substituted her in the subsequent proceedings.<sup>25</sup>

On May 12, 1998, petitioner filed a Petition for Clarificatory Order<sup>26</sup> with the DARRO, alleging that she owns the property subject of Isabel's application by virtue of a contract of sale dated October 12, 1976.<sup>27</sup> She prayed that the retention be granted in her favor since she is the transferee of Cristino.<sup>28</sup> The DARRO ruled in petitioner's favor on August 24, 1998,<sup>29</sup> affirming with modification the Order dated January 30, 1995, but striking off Isabel as applicant and substituting her with petitioner.<sup>30</sup> According to the DARRO, the right to retention is available to petitioner being the legal owner of the property.<sup>31</sup>

<sup>17</sup> *Rollo*, p. 63.

<sup>18</sup> *Id.* at 64-65.

<sup>19</sup> *Id.* at 65.

<sup>20</sup> *Id.* at 64.

<sup>21</sup> *Id.* at 66-68.

<sup>22</sup> *Id.* at 68.

<sup>23</sup> *Id.* at 67.

<sup>24</sup> *Id.* at 66-67.

<sup>25</sup> *Id.* at 73.

<sup>26</sup> *Id.* at 69-71.

<sup>27</sup> *Id.* at 69.

<sup>28</sup> *Id.* at 71.

<sup>29</sup> *Id.* at 72-74.

<sup>30</sup> *Id.* at 74.

<sup>31</sup> *Id.* at 73.

Respondents sought reconsideration,<sup>32</sup> alleging that (1) no hearing and/or investigation was conducted in the course of the petition for retention, thus their constitutional right to due process was violated,<sup>33</sup> and (2) the sale of the property to petitioner was void because it violated PD No. 27 and Memorandum Circular (MC) No. 18-81 in relation to MC No. 2-A.<sup>34</sup> Thus, petitioner had no personality to be granted the right of retention.<sup>35</sup>

The DARRO denied the motion for reconsideration.<sup>36</sup> It declared that the property was not tenanted at the time it was sold to petitioner as indicated in the contract of sale and the Affidavit of Non-Tenancy. Thus, MC No. 2-A was not violated. Being the owner of the property, petitioner had the personality to be granted a right of retention.<sup>37</sup> Besides, the area of the property, being only 3.9524 hectares, is well within the retention limit granted by law.<sup>38</sup>

Respondents appealed the resolution to the DAR,<sup>39</sup> but the DAR Secretary dismissed the appeal.<sup>40</sup> He ruled that a violation of MC No. 8 is not one of the grounds to deprive a landowner of her right to retention.<sup>41</sup> Thus, even if the sale between Cristino and petitioner is null and void, the land would still be deemed owned by Cristino for purposes of determining whether Cristino and/or Isabel is entitled to retention.<sup>42</sup> Since the DAR recognized the right of retention of Isabel over the property, its sale to petitioner did not violate PD No. 27 and RA No. 6657. The tenants of the property are not prejudiced by the act of selling the property because what was sold is part of the retained area.<sup>43</sup> The DAR Secretary also found that the property was within the coverage of PD No. 27 for being tenanted rice and corn land.<sup>44</sup> Respondents moved for the reconsideration of the Order, but the DAR Secretary denied their motion for lack of merit.<sup>45</sup>

Respondents filed an appeal with the Office of the President (OP).<sup>46</sup> They claimed that the earlier sale by Cristino of the seven hectares to Lito was already an implied exercise of the retention limit of spouses Cristino and Isabel. What was sold to petitioner is already over and above the retention limit of seven hectares, and thus petitioner, as substitute for Isabel, can no longer exercise the retention right.<sup>47</sup>

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<sup>32</sup> *Id.* at 75-76.

<sup>33</sup> *Id.* at 75.

<sup>34</sup> *Id.* at 76.

<sup>35</sup> *Id.*

<sup>36</sup> Resolution dated November 12, 1999. *CA rollo*, pp. 40-44.

<sup>37</sup> *Id.* at 43.

<sup>38</sup> *Id.* at 44.

<sup>39</sup> *Id.* at 45-57.

<sup>40</sup> Order dated June 28, 2005. *Rollo*, pp. 95-100.

<sup>41</sup> *Id.* at 99.

<sup>42</sup> *Id.*

<sup>43</sup> *Rollo*, p. 100.

<sup>44</sup> *Id.* at 99.

<sup>45</sup> Order dated June 22, 2006. *Id.* at 105-106.

<sup>46</sup> *Id.* at 108-110.

<sup>47</sup> *Id.* at 109.

In its Decision,<sup>48</sup> the OP granted the appeal and denied the application for retention of Isabel as substituted by petitioner. According to the OP, the right of retention granted to landowners is not absolute, and the voluntary conveyance made after the effectivity of PD No. 27, such as the sale in this case, could be considered as an implied relinquishment of such right.<sup>49</sup> The OP also found that the Deed of Sale and Affidavit of Non-Tenancy stating that the property was not tenanted at the time of sale were self-serving and could not overcome the findings of the DAR officials who found that the property was occupied by farmer-beneficiaries.<sup>50</sup>

Petitioner thus appealed to the CA.<sup>51</sup>

On May 20, 2009, the CA affirmed the OP Decision.<sup>52</sup> According to the CA, it was not proven that Cristino had no knowledge of the OLT coverage of his property,<sup>53</sup> and that Cristino may be presumed to have already exercised his right of retention over the first seven hectares of land he earlier sold to Lito.<sup>54</sup> Thus, the subsequent sale of the property to petitioner should no longer form part of the seven hectare limit provided under PD No. 27.<sup>55</sup> Further, the CA, like the OP, sustained the findings of the agrarian reform officials that the property was tenanted,<sup>56</sup> and thus, the sale was prohibited under MC No. 18-81 in relation to MC No. 2-A.

On August 25, 2009, the CA denied petitioner's motion for reconsideration.<sup>57</sup> Hence, this petition.

Petitioner maintains that she has a right of retention over the property sold to her by Cristino because: (a) the land is not covered by PD No. 27; (b) the land is within the retention limit and not subject to distribution;<sup>58</sup> (c) she is a purchaser in good faith;<sup>59</sup> and (d) the property is already registered in her name.<sup>60</sup> Respondents, on the other hand, argue that petitioner has no right of retention over the property, being a mere successor-in-interest resulting from an illegal conveyance because: (a) the property is tenanted; and (b) Cristino had already exercised his right of retention when he sold the seven hectares to Lito in 1975.<sup>61</sup>

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<sup>48</sup> *Id.* at 113-116.

<sup>49</sup> *Id.* at 116.

<sup>50</sup> *Id.* at 115.

<sup>51</sup> CA *rollo*, pp. 11-22.

<sup>52</sup> *Rollo*, pp. 31-46.

<sup>53</sup> Pursuant to DAR Administrative Order No. 4, Series of 1991, *Id.* at 42-43.

<sup>54</sup> *Id.* at 44.

<sup>55</sup> *Id.*

<sup>56</sup> *Rollo*, p. 45.

<sup>57</sup> *Id.* at 47.

<sup>58</sup> *Id.* at 23.

<sup>59</sup> *Id.* at 24.

<sup>60</sup> *Id.*

<sup>61</sup> Appeal Memorandum dated January 20, 2010, *rollo*, pp. 163-172. In its Resolution dated February 22, 2010, the Court noted the Appeal Memorandum as respondents' comment to the petition, *rollo*, p. 188.

### The Court's Ruling

We deny the petition.

*Validity of the sale and  
petitioner's right of retention*

The requisites for coverage under the OLT Program pursuant to PD No. 27 are the following: (a) the land must be devoted to rice or corn crops; and (b) a system of share-crop or lease-tenancy obtains in the land.<sup>62</sup>

Petitioner insists that at the time of the sale on October 12, 1976, the property was not tenanted as evidenced by the Deed of Sale and the Affidavit of Non-Tenancy executed by Cristino declaring that the property was not tenanted.<sup>63</sup> Moreover, she now claims that respondents failed to prove that the land was primarily devoted to rice and corn.<sup>64</sup> Therefore, the sale of the property in her favor did not violate PD No. 27.

The existence of tenancy over the subject property has already been declared by the DAR, the OP and the CA. It was only the DARRO which declared otherwise, solely relying on Cristino's declaration in the Affidavit of Non-Tenancy. Like the DAR, OP and the CA, we find that Cristino's Affidavit of Non-Tenancy is self-serving and merely executed to comply with the requisites for the sale to petitioner. We note too, that per the MARO Memorandum dated October 16, 1990,<sup>65</sup> petitioner acknowledged that respondents have been *bona fide* tenant-tillers of the property even before its sale to her was consummated.<sup>66</sup>

In appeals in agrarian cases, it is a long-standing rule that when the appellate court has confirmed that the findings of fact of the agrarian courts are borne out by the records, such findings are conclusive and binding on this Court.<sup>67</sup> Further, the well-settled rule is that only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court, since "the Supreme Court is not a trier of facts."<sup>68</sup> It is not our

<sup>62</sup> *Vales v. Galinato*, G.R. No. 180134, March 5, 2014, 718 SCRA 100, 110.

<sup>63</sup> *Rollo*, pp. 18-19.

<sup>64</sup> *Id.* at 197.

<sup>65</sup> DAR records, pp. 27-28.

<sup>66</sup> Portions of the MARO's report and recommendation dated October 16, 1990 read:

After giving consideration to the arguments of both farmers-respondents and landowner-complainant, I am of the opinion that the five hectare retention, should Isabel Sibbaluca would submit her application will be given due course and favorable consideration and that would validate the sale of subject parcel between Cristino Sibbaluca and Fe Saguinsin. **Fe Saguinsin has manifested her willingness to maintain the aforesaid farmers-respondents as her tenants as they are bonafide tenant-tillers of the landholding long before the sale was consum[m]ated[.]** (DAR records, p. 27)

<sup>67</sup> *Maylem v. Ellano*, G.R. No. 162721, July 13, 2009, 592 SCRA 440, 448-449, citing *Perez-Rosario v. Court of Appeals*, G.R. No. 140796, June 30, 2006, 494 SCRA 66, 89.

<sup>68</sup> *New Sampaguita Builders Construction, Inc. v. Philippine National Bank*, G.R. No. 148753, July 30, 2004, 435 SCRA 565, 580, citing *Far East Bank & Trust Co. v. Court of Appeals*, G.R. No. 123569, April 1, 1996, 256 SCRA 15, 18.

function to review, examine and evaluate or weigh the probative value of the evidence presented.<sup>69</sup>

In the proceedings below, petitioner never alleged that the property was not tenanted or outside the coverage of the OLT.<sup>70</sup> This argument was raised only before the CA in her petition for review.<sup>71</sup> Neither did she assail the finding that the property is rice and/or corn land. She alleged that respondents failed to prove that the land was devoted to the production of rice and corn only in her Reply dated July 19, 2010.<sup>72</sup> Points of law, theories, issues and arguments not brought to the attention of the trial court will not be and ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal. Basic consideration of due process impels this rule.<sup>73</sup>

The existence of tenancy and the use of land for planting rice and/or corn having been established, we find no reason to overturn the same. Thus, the land is within the coverage of the OLT under PD No. 27.

Pursuant to PD No. 27, the DAR issued MC Nos. 2<sup>74</sup> and 2-A,<sup>75</sup> series of 1973, and MC No. 8,<sup>76</sup> series of 1974.<sup>77</sup> MC No. 2-A which amended MC No. 2 provides the following explicit prohibition, among others:

- h. **Transfer of ownership after October 21, 1972, except to the actual tenant-farmer tiller.** If transferred to him, the cost should be that prescribed by Presidential Decree No. 27. (Emphasis supplied.)

While MC No. 8 subsequently repealed or modified MC Nos. 2 and 2-A, and other circulars or memoranda inconsistent with it, providing that:

4. No act shall be done to undermine or subvert the intent and provisions of Presidential Decrees, Letters of Instructions, Memoranda and Directives, such as the following and/or similar acts:

x x x

- f) **Transferring ownership to tenanted rice and/or corn lands after October 21, 1972, except to the actual tenant- farmers or tillers** but in strict

<sup>69</sup> *Bautista v. Puyat Vinyl Products, Inc.*, G.R. No. 133056, August 28, 2001, 363 SCRA 794, 798, citing *Trade Unions of the Philippines v. Laguesma*, G.R. No. 95013, September 21, 1994, 236 SCRA 586, 591.

<sup>70</sup> *Rollo*, pp. 69-71.

<sup>71</sup> *Id.* at 54.

<sup>72</sup> *Id.* at 197.

<sup>73</sup> *Esteban v. Marcelo*, G.R. No. 197725, July 31, 2013, 703 SCRA 82, 91-92, citing *Nunez v. SLTEAS Phoenix Solutions, Inc.*, G.R. No. 180542, April 12, 2010, 618 SCRA 134, 145.

<sup>74</sup> Dated June 18, 1973.

<sup>75</sup> Supplement to Memorandum Circular No. 2 dated June 18, 1973.

<sup>76</sup> Interim Policy of Status Quo Relationship between Landowners and their Tenant-Tillers.

<sup>77</sup> *Taguinod v. Court of Appeals*, *supra* note 9. Pursuant to PD No. 27, DAR is empowered to promulgate rules and regulations for the implementation of PD No. 27.

conformity to the provisions of Presidential Decree No. 27 and the requirements of the DAR. (Emphasis supplied.)

Petitioner cannot use the defense of being a good faith buyer, since she raised this issue only in the present petition for review. Nevertheless, we cannot hold that petitioner is a buyer in good faith. A purchaser in good faith is one who buys a property without notice that some other person has a right to, or interest in, the property and pays full and fair price at the time of purchase or before he has notice of the claim or interest of other persons in the property.<sup>78</sup> Petitioner in this case was aware that the property was tenanted at the time of sale.<sup>79</sup>

Another factor which militates against petitioner's claim is the very application for retention Isabel filed which she substituted for. Isabel's application for retention is an acknowledgement that the property is covered by the OLT under PD No. 27, as in fact she indicated in her application that the sale to petitioner was contrary to PD No. 27.<sup>80</sup> In her Petition for Clarificatory Order, petitioner claimed that retention should be granted in her favor being the recognized transferee of whatever right Cristino might have had over the property.<sup>81</sup> Thus, she also impliedly acknowledged that the property is covered by PD No. 27. It is illogical for someone to invoke a right and at the same time claim that the requisites for the exercise of the said right are not present. Petitioner cannot claim retention rights and deny coverage under PD No. 27.

Petitioner's allegation that her title is conclusive evidence of her ownership of the property<sup>82</sup> is misplaced. We have held that a certificate of title cannot always be considered as conclusive evidence of ownership:

Moreover, placing a parcel of land under the mantle of the Torrens system does not mean that ownership thereof can no longer be disputed. **Ownership is different from a certificate of title, the latter only serving as the best proof of ownership over a piece of land. The certificate cannot always be considered as conclusive evidence of ownership.** In fact, mere issuance of the certificate of title in the name of any person does not foreclose the possibility that the real property may be under co-ownership with persons not named in the certificate, or that the registrant may only be a trustee, or that other parties may have

<sup>78</sup> *Homeowners Savings and Loan Bank v. Felonia*, G.R. No. 189477, February 26, 2014, 717 SCRA 358, 367.

<sup>79</sup> *Rollo*, pp. 18-19.

<sup>80</sup> *Id.* at 63. If Isabel believed that the property is not covered by the OLT, then she would have filed an application for exemption. In *Daez v. Court of Appeals*, G.R. No. 133507, February 17, 2000, 325 SCRA 856, 862-863, we ruled that if either of the requisites for coverage under the OLT is absent, a landowner may apply for an exemption. Thus, exemption for the coverage of OLT lies if: (1) the land is not devoted to rice or corn crops even if it is tenanted; or (2) the land is untenanted even though it is devoted to rice or corn crops.

<sup>81</sup> *Rollo*, p. 71.

<sup>82</sup> *Id.* at 21.



acquired interest over the property subsequent to the issuance of the certificate of title. Needless to say, registration does not vest ownership over a property, but may be the best evidence thereof.<sup>83</sup> (Emphasis supplied.)

In sum, the property, being tenanted rice and/or corn land, is under the coverage of the OLT, and could not have been validly sold after October 21, 1972. The sale between Cristino and petitioner on October 12, 1976, having been made in violation of PD No. 27 and its implementing guidelines is void.<sup>84</sup> Petitioner, not being the owner of the property, does not have the right of retention over the property. Consequently, ownership reverts to Cristino.<sup>85</sup>

### *Cristino's right of retention*

The ownership reverting to Cristino notwithstanding, we cannot make a determination whether Cristino, or his heirs may still exercise the right to retention. We take exception to the OP and the CA's findings that (1) Cristino's heirs cannot exercise the right of retention because Cristino had no intention to retain the property, and (2) Cristino is presumed to have already exercised his right of retention over the first seven hectares sold to Lito.<sup>86</sup>

We find no basis for these declarations. Under Section 3 of DAR Administrative Order No. 4, Series of 1991, cited by the CA, the heirs may exercise the original landowner's right to retention if they can prove that the decedent had no knowledge of OLT Coverage over the subject property. As such, the intent must be proven by the heirs seeking to exercise the right. In this case, the heirs did not have the opportunity to prove Cristino's intent because the DARRO, without requiring proof of such intent, granted the application for retention filed by Isabel, Cristino's widow.

Further, Isabel, or Cristino's heirs, if any, were not given the opportunity to present evidence when the issue of intent to retain was raised in the proceedings below, since petitioner has already substituted Isabel. The record shows that respondents presented no evidence or legal basis to prove the so-called implied exercise of retention. This was a mere allegation on the part of the respondents, a matter which Cristino's heirs, if any, failed to rebut, as they were never part of the proceedings. We note that Isabel died after she filed the application for retention,<sup>87</sup> and no heir or legal representative of Cristino participated in the proceedings thereafter.

<sup>83</sup> *Lacayan v. Samoy, Jr.*, G.R. No. 165427, March 21, 201, 645 SCRA 677, 689-690, citing *Lee Tek Sheng v. Court of Appeals*, G.R. No. 115402, July 15, 1998, 292 SCRA 544. See also *Alde v. Bernal*, G.R. No. 169336, March 18, 2010, 616 SCRA 60, 70.

<sup>84</sup> *Sta. Monica Industrial and Development Corporation v. DAR Regional Director for Region III*, G.R. No. 164846, June 18, 2008, 555 SCRA 97, 106, citing *Heirs of Guillermo A. Batongbacal v. Court of Appeals*, G.R. No. 125063, September 24, 2002, 389 SCRA 517, 525; *Borromeo v. Mina*, G.R. No. 193747, June 5, 2013, 697 SCRA 516, 527.

<sup>85</sup> See *Taguinod v. Court of Appeals*, G.R. No. 154654, September 14, 2007, 533 SCRA 403, 421.

<sup>86</sup> *Rollo*, pp. 43-44.

<sup>87</sup> *Id.* at 73.

When a party to a pending action dies and the claim is not extinguished, the Rules of Court require a substitution of the deceased in accordance with Section 16<sup>88</sup> of Rule 3. In *De la Cruz v. Joaquin*,<sup>89</sup> we explained the importance of the substitution of a deceased party:

The rule on the substitution of parties was crafted to protect every party's right to due process. The estate of the deceased party will continue to be properly represented in the suit through the duly appointed legal representative. Moreover, no adjudication can be made against the successor of the deceased if the fundamental right to a day in court is denied.<sup>90</sup>

Thus, in all proceedings, the legal representatives must appear to protect the interests of the deceased.<sup>91</sup> Because Isabel was never substituted by her heirs or legal representative in this case, no adjudication can be had on Cristino's right of retention as a matter of due process.

Cristino's heirs, if there be any, may still apply for, and exercise the right of retention if they can show entitlement thereto.

**WHEREFORE**, in view of the foregoing, the petition is **DENIED** for lack of merit. The Decision and Resolution dated May 20, 2009 and August 25, 2009, respectively, rendered by the CA in CA-G.R. SP No. 98049 are **AFFIRMED** only insofar as the CA ruled that petitioner Fe Saguinsin has no right of retention over the 3.9524 hectare property.

**SO ORDERED.**

  
**FRANCIS H. JARDELEZA**  
*Associate Justice*

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<sup>88</sup> Sec. 16. *Death of a party; duty of counsel.* – Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.


x x x

<sup>89</sup> G.R. No. 162788, July 28, 2005, 464 SCRA 576.

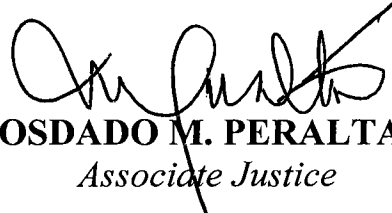
<sup>90</sup> *Id.* at 584.

<sup>91</sup> *Id.* at 586, citing *Vda. de Dela Cruz v. Court of Appeals*, G.R. No. L-41107, February 28, 1979, 88 SCRA 695, 702.

WE CONCUR:



**PRESBITERO J. VELASCO, JR.**  
*Associate Justice*  
*Chairperson*



**DIOSDADO M. PERALTA**  
*Associate Justice*

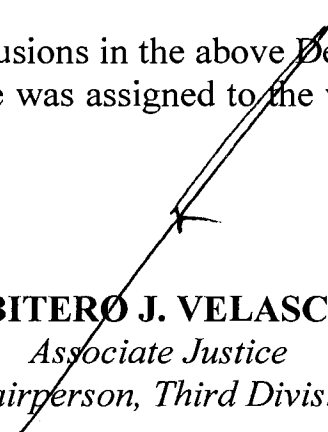


**JOSE PORTUGAL PEREZ**  
*Associate Justice*

(On Official Leave)  
**BIENVENIDO L. REYES**  
*Associate Justice*

**ATTESTATION**

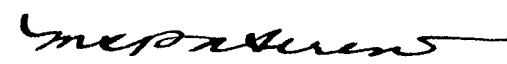
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.




**PRESBITERO J. VELASCO, JR.**  
*Associate Justice*  
*Chairperson, Third Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified 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.



**MARIA LOURDES P. A. SERENO**  
*Chief Justice*

CERTIFIED TRUE COPY  
  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division  
 AUG 01 2016