Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SPS. BUENAVENTURA BALUCAN, JR. AND YOLANDA Y. BALUCAN, RUTH M. CABUSAS, GEMMA BARCELONA AND MYANN BALUCAN, Petitioners, - versus - **SPS. LENNIE B. NAGELI AND RUDOLF NAGELI, REPRESENTED BY THEIR ATTORNEYS-IN-FACT, SPS. EPPIE B. FADRIGO AND TEODORICO FADRIGO,** Respondents.	**G.R. No. 262889** Present: LEONEN, *SAJ*, *Chairperson*, LAZARO-JAVIER, LOPEZ, M., LOPEZ, J., and, KHO, JR., *JJ.* Promulgated: NOV 13 2023

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D E C I S I O N

LOPEZ, J., *J.*:

This Court resolves a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] and Resolution[3] of the Court of Appeals (CA), which dismissed the Petition for *Certiorari*[4] filed by petitioners Spouses Buenaventura Balucan, Jr., and Yolanda Y. Balucan, Ruth M.

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1 *Rollo*, pp. 5–47.

2 *Id.* at 49–53. The July 21, 2021 Decision in CA-G.R. SP. No. 09851 was penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Loida S. Posadas-Kahulugan and Anisah B. Amanodin-Umpa, Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

3 *Id.* at 56–61. The July 6, 2022 Resolution in CA-G.R. SP. No. 09851 was penned by Associate Justice Anisah B. Amanodin-Umpa and concurred in by Associate Justices Evalyn M. Arellano-Morales and Loida K. Posadas-Kahulugan, Special Former Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

4 *Id.* at 286-307.

Cabusas, Gemma Barcelona, and Myann Balucan (Sps. Balucan et al.) for being the wrong remedy to question the Order[5] issued by the Secretary of the Department of Agrarian Reform (DAR) which denied Sps. Balucan et al.'s appeal and affirmed their disqualification as Agrarian Reform Beneficiaries (ARB) under Republic Act No. 6657 or the Comprehensive Agrarian Reform Law of 1988.

Facts

On January 14, 2010, DAR-Regional Office XI (DAR-RO XI) received[6] a copy of the Petition[7] filed by Spouses Lennie B. Nageli (Lennie) and Rudolf Nageli (Rudolf) (collectively, Sps. Nageli) which prayed for the disqualification of Sps. Balucan et al. as ARBs, annulment of contracts, cancellation of Transfer Certificate of Title (TCT) Nos. CL-2651, CL-2652, CL-2657 and CL-2658, reconveyance and damages with attorney's fees.[8]

In their Petition, Sps. Nageli claimed that sometime in February 1994, Sps. Jose Neri Rendon and Salvacion Rendon (Sps. Rendon) sold to Lennie two parcels of land located in Matina Biao, Davao City and covered by TCT Nos. T-211542 and T-211544.[9] Then, Sps. Rendon, in connivance with Sps. Balucan et al., were able to have the two parcels of land transferred to Sps. Balucan through voluntary land transfer under Republic Act No. 6657.[10] Subsequently, Certificates of Land Ownership Acquisition (CLOA) over the subject parcels of land were issued and those were used as basis for the issuance of TCTs under the name of Sps. Balucan et al.[11] Aside from claiming that the subject parcels of land were fraudulently transferred to Sps. Balucan et al., Sps. Nageli averred that they are also not qualified to become ARBs since they were never occupants and they never tilled the subject parcels of land.[12]

For their part, Sps. Balucan et al. denied the allegations of fraud by Sps. Nageli[13] and asseverated that they are actual occupants and tillers of the subject parcels of land, the ownership of which was transferred to them under Republic Act No. 6657.[14] They asserted that Sps. Nageli's Petition should be dismissed since they are foreigners who cannot own land in the Philippines[15] and that they are guilty of forum shopping because they initiated prior cases

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5 *Id.* at 273–280. The January 26, 2020 Order issued in Adm. Case No. A-9999-11-B1-116-12 was penned by Secretary John R. Castriciones, Department of Agrarian Reform, Quezon City.
6 *Id.* at 80.
7 *Id.* at 80–100.
8 *Id.* at 80.
9 *Id.* at 84.
10 *Id.* at 86–87.
11 *Id.* at 87–88.
12 *Id.* at 88.
13 *Id.* at 164–165.
14 *Id.*
15 *Id.* at 165.

involving similar allegations which were dismissed by the Regional Trial Court (RTC) of Davao City and the DAR Adjudication Board (DARAB) for lack of jurisdiction.[16]

On October 3, 2011, the DAR-RO XI issued an Order.[17] The *fallo* thereof reads:

> IN LIGHT OF THE FOREGOING DISQUISITION, Order is thereby issued:
>
> 1. Disqualifying Gemma Barcelona as farmer-beneficiary of TCT No. CL-2651 involving an area of 20,000 square meters, more or less;
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> 2. Disqualifying Myann Y. Balucan as farmer-beneficiary of TCT No. CL-2652 consisting an area of 30,000 square meters, more or less;
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> 3. Disqualifying Yolanda Y. Balucan as farmer-beneficiary of TCT No. CL-2657 involving an area of 30,430 square meters, more or less;
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> 4. Disqualifying Ruth M. Cabusas as farmer-beneficiary of TCT No. CL-2658 involving an area of 30,430 square meters, more or less; and
>
> 5. Directing the Municipal Agrarian Reform Officer of Tugbok, Davao City to screen qualified farmer-beneficiaries to take the place of the abovenamed CLOA Holders.[18]

In disqualifying Sps. Balucan et al., DAR-RO XI ruled that they did not possess the qualifications to be considered as ARBs.[19] Specifically, DAR-RO XI found that Sps. Balucan et al. are not permanent residents of the municipality where the subject parcels of land were located, they have not been working on the subject lands as lessees or farmworkers, and they were not the actual tillers thereof.[20] Notably, the DAR-RO XI did not rule on Sps. Nageli's allegation that they are the real owners of the parcels of land subject of the case and the same was supposedly transferred through fraud by Sps. Rendon to Sps. Balucan et al.

On August 24, 2012, Sps. Balucan et al. appealed[21] the ruling of the DAR-RO XI to the DAR Secretary.

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16 *Id.* at 166–168.
17 *Id.* at 223–230.
18 *Id.* at 229.
19 *Id.* at 228–229.
20 *Id.*
21 *Id.* at 232–234.

On January 26, 2020, the DAR Secretary issued an Order.[22] The dispositive portion states:

> **WHEREFORE, ORDER** is hereby issued **DENYING** the Appeal for lack of merit and the assailed Order dated 03 October 2011 is hereby **AFFIRMED**.
>
> **SO ORDERED.**[23]

In denying Sps. Balucan et al.'s appeal, the DAR Secretary ruled that DAR-RO XI did not commit any error when it disqualified Sps. Balucan et al. as ARBs considering that they failed to prove that they are qualified as beneficiaries under the agrarian reform program of the government.[24]

On May 27, 2020, Sps. Balucan et al. filed a Petition for *Certiorari*[25] with the CA which prayed for the annulment of the DAR Orders for having been issued with grave abuse of discretion considering that: (1) the DAR did not acquire jurisdiction over Sps. Nageli since they are foreign nationals;[26] (2) Sps. Nageli are guilty of forum shopping;[27] and (3) there was inordinate delay in the DAR Secretary's resolution of their appeal.[28]

On July 21, 2021, the CA issued the assailed Decision.[29] The dispositive portion states:

> **WHEREFORE**, the petition is dismissed.
>
> SO ORDERED.[30]

In dismissing the case, the CA held that a Petition for *Certiorari* is the wrong remedy to question the denial of an appeal by the DAR Secretary as the same must be done through a verified Petition for Review under Rule 43 of the Rules of Court.[31] The CA further ruled that though there are instances when a petition for *certiorari* can be treated as a petition for review, it is proscribed in the instant case since Sps. Balucan et al. filed their petition for

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22 *Id.* at 273–280.
23 *Id.* at 279.
24 *Id.* at 276–279.
25 *Id.* at 281–307.
26 *Id.* at 294–295.
27 *Id.* at 295–298.
28 *Id.* at 301–304.
29 *Id.* at 49–53.
30 *Id.* at 52.
31 *Id.* at 50.

certiorari beyond the 15-day reglementary period for the filing of a petition for review.[32]

Sps. Balucan et al. moved for reconsideration[33] of the assailed Decision, but the same was denied in the assailed Resolution.[34] The dispositive portion reads:

> WHEREFORE, petitioners' Motion for Reconsideration is DENIED.
>
> SO ORDERED.[35]

In denying Sps. Balucan et al.'s Motion for Reconsideration, the CA reiterated that Sps. Balucan et al. availed of the wrong remedy when it filed a petition for *certiorari* instead of a petition for review.[36] The CA likewise held that even if it decided on the merits of Sps. Balucan et al.'s Petition, it must still be dismissed since the DAR acquired jurisdiction over the persons of Sps. Nageli the moment they filed their initiatory pleading with DAR-RO XI.[37]

Hence, the instant Petition.

Sps. Balucan et al. claim that the CA erred when it dismissed their Petition for *Certiorari*.[38] They argue that since their grounds for the reversal of the issuances by the DAR are based on grave abuse of discretion and that there was no other plain, speedy, and adequate remedy available to them, the proper recourse to question the same was through *certiorari* proceedings.[39] Sps. Balucan et al. further argue that the issuances are void considering that: (1) the DAR did not acquire jurisdiction over Sps. Nageli;[40] (2) Sps. Nageli's cause of action had already prescribed since it has been more than a year since registration of the CLOAs issued to them;[41] (3) there was inordinate delay in the resolution of their appeal on the part of the DAR Secretary;[42] and (4) Sps. Nageli committed forum shopping.[43]

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32 *Id.* at 51–52.
33 *Id.* at 555–562.
34 *Id.* at 56–61.
35 *Id.* at 61.
36 *Id.* at 58–59.
37 *Id.* at 59–60.
38 *Id.* at 6.
39 *Id.* at 15–16.
40 *Id.* at 16–17.
41 *Id.* at 17.
42 *Id.* at 16.
43 *Id.* at 17.

On October 17, 2022, this Court issued a Resolution[44] requiring Sps. Nageli to file their Comment to the present Petition.

Thereafter, the counsel of Sps. Nageli filed a Manifestation and Motion[45] informing this Court that Sps. Balucan et al.'s counsel, Atty. Alberto Rafael L. Aportadera (Aportadera), deliberately sent his clients' copy of the present Petition to their former counsel despite being aware that the same already withdrew his appearance for Sps. Nageli.[46] Sps. Nageli moved for the dismissal of the instant Petition and that Atty. Aportadera be held in contempt of court[47]

On March 6, 2023, this Court issued a Resolution[48] which denied Sps. Nageli's Motion to Dismiss and instead directed: (1) Sps. Nageli to file their Comment to the Petition; and (2) Atty. Aportadera to file a Comment on the motion to have him cited in contempt.

On March 13, 2023, Sps. Nageli filed their Comment[49] on the instant Petition praying for its dismissal[50] on the following grounds: (1) Sps. Balucan et al. availed of the wrong remedy when they filed a Petition for *Certiorari* to question the denial of their appeal by the DAR Secretary;[51] (2) Sps. Balucan et al. failed to prove that Lennie is a foreign national when she purchased the subject parcels of land in 1994;[52] (3) the issue of prescription was raised for the first time in the present Petition and thus should not be considered by this Court;[53] (4) in any event since the titles that Sps. Balucan et al. acquired over the subject properties are void *ab initio*, prescription does not set in;[54] (5) delay in the resolution of the case by the DAR Secretary does not amount to grave abuse of discretion since the same was not occasioned by passion or hostility;[55] and (6) Sps. Nageli did not commit any forum shopping since the elements of the same are not present in the different cases that they have filed.[56]

On June 29, 2023, Atty. Aportadera filed his Comment[57] on Sps. Nageli's motion that he be cited in contempt. He claimed that his failure to

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44 *Id.* at 572.
45 *Id.* at 574–578.
46 *Id.* at 575–576.
47 *Id.* at 576.
48 *Id.* at 601.
49 *Id.* at 618–636.
50 *Id.* at 632.
51 *Id.* at 621–622.
52 *Id.* at 623–625.
53 *Id.* at 626.
54 *Id.* at 626–627.
55 *Id.* at 629–631.
56 *Id.* at 631–632.
57 *Id.* at 667–672.

send a copy of the Petition to Sps. Nageli's current counsel was inadvertent and only due to his heavy work schedule.[58]

On July 12, 2023, Sps. Nageli filed a Reply[59] to Atty. Aportadera's Comment wherein they reiterated their prayer to have him cited in contempt.[60]

Issues

This Court shall resolve the following issues:

I.

Whether the CA erred when it dismissed Sps. Balucan et al.'s Petition for *Certiorari*;

II.

Whether the DAR's decision to disqualify Spouses Balucan et al. as Agrarian Reform Beneficiaries is void for having been rendered without or in excess of its jurisdiction; and

III.

Whether Atty. Aportadera should be held in contempt of court.

This Court's Ruling

The Proper Procedure to Assail the Ruling of the DAR Secretary was Through a Petition for Review and not a Petition for Certiorari.

Sps. Balucan et al. insist that the proper remedy to question the purported grave abuse of discretion committed by the DAR Secretary when he denied their appeal is a petition for *certiorari*.[61]

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58 *Id.* at 667–678.
59 *Id.* at 734–739.
60 *Id.* at 737.
61 *Id.* at 17–18.

The same is without any merit.

It is settled that resort to a Rule 65 Petition is justified only when the following requisites concur: (1) the writ is directed against a tribunal, a board or any officer exercising judicial or quasi-judicial functions; (2) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.[62] In *Villaran v. Department of Agrarian Reform Adjudication Board*,[63] this Court held that the proper remedy to question the decision of the DAR in the exercise of its quasi-judicial functions is through a Petition for Review and not a Petition for *Certiorari*:

> We agree with the Court of Appeals that petitioners have resorted to a wrong mode of appeal by pursuing a Rule 65 petition from the DARAB's decision. Section 60 of Republic Act (R.A.) No. 6657 clearly states that the modality of recourse from decisions or orders of the then special agrarian courts is by petition for review. In turn, Section 61 of the law mandates that judicial review of said orders or decisions are governed by the Rules of Court. Section 60 thereof is to be read in relation to R.A. No. 7902, which expanded the jurisdiction of the Court of Appeals to include exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions. On this basis, the Supreme Court issued Circular No. 1-95 governing appeals from all quasi-judicial bodies to the Court of Appeals by petition for review regardless of the nature of the question raised. ***Hence, the Rules direct that it is Rule 43 that must govern the procedure for judicial review of decisions, orders, or resolutions of the DAR as in this case. Under Supreme Court Circular No. 2-90, moreover, an appeal taken to the Supreme Court or the Court of Appeals by a wrong or inappropriate mode warrants a dismissal.***
>
> Thus, petitioners should have assailed the January 16, 2001 decision and the June 25, 2002 resolution of the DARAB before the appellate court *via* a petition for review under Rule 43. ***By filing a special civil action for certiorari under Rule 65 rather than the mandatory petition for review, petitioners have clearly taken an inappropriate recourse. For this reason alone, we find no reversible error on the part of the Court of Appeals in dismissing the petition before it. While the rule that a petition for certiorari is dismissible when availed of as a wrong remedy is not inflexible and admits of exceptions — such as when public welfare and the advancement of public policy dictates; or when the broader interest of justice so requires; or when the writs issued are null and void; or when the questioned order amounts to an oppressive exercise of judicial authority*** — none of these exceptions obtains in the present case.[64] (Citations omitted, emphasis supplied)

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[62] *Sanchez v. Court of Appeals*, 345 Phil. 155, 179 (1997) [Per J. Panganiban, Third Division].
[63] 683 Phil. 536 (2012) [Per J. Peralta, Third Division].
[64] *Id.* at 544–546.

From the foregoing, it is undeniable that Sps. Balucan et al.'s counsel erred when they filed a Petition for *Certiorari* to assail the denial of their appeal by the DAR Secretary as there is a plain, speedy, and adequate remedy available to them in the ordinary course of law.

Their resort to the wrong remedy notwithstanding, this Court's ruling in *Villaran* provides that a petition for *certiorari*, even when availed of as a wrong remedy, can still be considered in exceptional situations such as when the issuances assailed are null and void.[65] Hence, it is necessary to resolve Sps. Balucan et al.'s claim that their disqualification as ARBs is void to determine if the CA erred when it dismissed Sps. Balucan et al.'s petition for *certiorari* on procedural grounds.

The DAR Orders are Void as the Same Were Issued Despite the DAR Failing to Acquire Jurisdiction Over the Disqualification Case Filed by Sps. Nageli.

Sps. Balucan's claim of grave abuse of discretion by the DAR Secretary and DAR-RO XI is anchored on the following grounds: (1) Sps. Nageli's cause of action had already prescribed since it has been more than a year since their certificate of titles were issued to them;[66] (2) there was inordinate delay in the resolution of their appeal on the part of the DAR Secretary;[67] (3) Sps. Nageli committed forum shopping;[68] and (4) the DAR did not acquire jurisdiction over the persons of Sps. Nageli since they are foreign nationals and therefore are not real parties-in-interest.[69]

This Court shall discuss the foregoing in *seriatim*:

First, regarding the issue of prescription, Section 24 of Republic Act No. 6657, as amended by Republic Act No. 9700, provides that CLOAs and other titles issued under the agrarian reform program shall be indefeasible within a year after they are registered with the Register of Deeds:

> SEC. 24. *Award to Beneficiaries.*—The rights and responsibilities of the beneficiaries shall commence from their receipt of a duly registered emancipation patent or certificate of land ownership award and their actual physical possession of the awarded land. Such award shall be completed in not more than one hundred eighty (180) days from the date of registration

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65 *Id.* at 546.
66 *Rollo*, p. 17.
67 *Id.* at 16.
68 *Id.* at 17.
69 *Id.* at 16–17.

> of the title in the name of the Republic of the Philippines: *Provided*, ***That the emancipation patents, the certificates of land ownership award, and other titles issued under any agrarian reform program shall be indefeasible and imprescriptible after one (1) year from its registration with the Office of the Registry of Deeds,*** subject to the conditions, limitations and qualifications of this Act, the property registration decree, and other pertinent laws. The emancipation patents or the certificates of land ownership award being titles brought under the operation of the torrens system, are conferred with the same indefeasibility and security afforded to all titles under the said system, as provided for by Presidential Decree No. 1529, as amended by Republic Act No. 6732[.] (Emphasis supplied)

Here, records show that the CLOAs issued in favor of Sps. Balucan et al. were duly registered with the Register of Deeds in 1996 or 14 years before Sps. Nageli filed their petition for disqualification with the DAR. However, this Court, in *Lucero v. Delfino*,[70] explained that a CLOA can still be forfeited even after a year has passed if the same was issued in violation of agrarian reform laws:

> Moreover, even assuming that the Regional Director's Order dated April 9, 2002 has attained finality, it bears emphasis that the *Polo Plantation* case also recognizes that ***CLOAs may be forfeited if they were issued in violation of agrarian reform laws***:
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> > Here, by the time the Petition for Inclusion/Exclusion was filed on June 30, 2009, the September 3, 2008 Decision declaring the validity of CLOA No. 00114438 had attained finality and TCT No. T-802 had already become incontrovertible. As registered property owners, petitioner's members were entitled to the protection given to every Torrens title holder. Their rights may only be forfeited in case of violations of agrarian laws, as well as noncompliance with the restrictions and conditions under the Comprehensive Agrarian Reform Law.
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> Pertinently, in Daez v. Court of Appeals, this Court likewise elucidated that ***CLOAs may be cancelled if the same were issued in violation of agrarian reform laws***, such as a landowner's right of retention:
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> > *Finally.* Land awards made pursuant to the government's agrarian reform program are subject to the exercise by a landowner, who is so qualified, of his right of retention.
> >
> > Under P.D. No. 27, beneficiaries are issued CLTs to entitle them to possess lands. Thereafter, they are issued Emancipation Patents (EPs) after compliance with all necessary conditions. Such EPs, upon their presentation to the Register of

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[70] G.R. No. 208191, September 29, 2021 [Per J. Gaerlan, Second Division].

> Deeds, result in the issuance of the corresponding transfer certificates of title (TCT) in favor of the beneficiaries mentioned therein.
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> Under R.A. No. 6657, the procedure has been simplified. Only Certificates of Land Ownership Award (CLOAs) are issued, in lieu of EPs, after compliance with all prerequisites. Thereafter, upon presentation of the CLOAs to the Register of Deeds, TCTs are issued to the designated beneficiaries. CLTs are no longer issued.
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> The issuance of EPs or CLOAs to beneficiaries does not absolutely bar the landowner from retaining the area covered thereby. Under Administrative Order No. 2, series of 1994, an EP or CLOA may be cancelled if the land covered is later found to be part of the landowner's retained area.
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> A certificate of title accumulates in one document a comprehensive statement of the status of the fee held by the owner of a parcel of land. As such, it is a mere evidence of ownership and it does not constitute the title to the land itself. It cannot confer title where no title has been acquired by any of the means provided by law.
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> Thus, we had, in the past, sustained the nullification of a certificate of title issued pursuant to a homestead patent because the land covered was not part of the public domain and as a result, the government had no authority to issue such patent in the first place. Fraud in the issuance of the patent, is also a ground for impugning the validity of a certificate of title. In other words, the invalidity of the patent or title is sufficient basis for nullifying the certificate of title since the latter is merely an evidence of the former.
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> ***From the foregoing, it is clear that CLOAs which have been issued in violation of agrarian reform laws, are not covered by the rule on indefeasibility of title.*** In fact, as seen above, DAR Administrative Order No. 2, series of 1994, expressly provides for grounds for the cancellation of registered CLOAs, including a violation of a landowner's right of retention, and a circumvention of laws relating to the implementation of the agrarian reform program.[71] (Citations omitted, emphasis supplied)

In this case, the DAR's basis for disqualifying Sps. Balucan et al. as ARBs is their material misrepresentation of their qualification as such under Section 22 of Republic Act No. 6657, considering that the investigation conducted by DAR-RO XI showed that Sps. Balucan et al. are not residents of the barangay or municipality where the subject properties are located,[72] and

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[71] *Id.*

[72] *Rollo*, p. 265.

that they are not lessees, farmworkers, or actual tillers of the subject properties.[73] Hence, the CLOAs issued to them may still be forfeited if proven to have been issued in violation of Republic Act No. 6657, as amended.

Second, as for the supposed violation of Sps. Balucan et al.'s right to speedy disposition of their appeal by the DAR Secretary, this Court in *Cagang v. Sandiganbayan*[74] provided guidelines on how to resolve cases where said right is invoked:

> This Court now clarifies the mode of analysis in situations where the right to speedy disposition of cases or the right to speedy trial is invoked.
>
> *First*, the right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. ***The right to speedy disposition of cases, however, may be invoked before any tribunal, whether judicial or quasi-judicial. What is important is that the accused may already be prejudiced by the proceeding for the right to speedy disposition of cases to be invoked.***
>
> ***Second, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation.*** This Court acknowledges, however, that the Ombudsman should set reasonable periods for preliminary investigation, with due regard to the complexities and nuances of each case. Delays beyond this period will be taken against the prosecution. The period taken for fact-finding investigations prior to the filing of the formal complaint shall not be included in the determination of whether there has been inordinate delay.
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> ***Third, courts must first determine which party carries the burden of proof. If the right is invoked within the given time periods contained in current Supreme Court resolutions and circulars, and the time periods that will be promulgated by the Office of the Ombudsman, the defense has the burden of proving that the right was justifiably invoked. If the delay occurs beyond the given time period and the right is invoked, the prosecution has the burden of justifying the delay.***
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> If the defense has the burden of proof, it must prove *first*, whether the case is motivated by malice or clearly only politically motivated and is attended by utter lack of evidence, and *second*, that the defense did not contribute to the delay.
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> Once the burden of proof shifts to the prosecution, the prosecution must prove *first*, that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; *second*, that the

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[73] *Id.*

[74] 837 Phil. 815 (2018) [Per J. Leonen, *En Banc*].

complexity of the issues and the volume of evidence made the delay inevitable; and *third*, that no prejudice was suffered by the accused as a result of the delay.

Fourth, determination of the length of delay is never mechanical. Courts must consider the entire context of the case, from the amount of evidence to be weighed to the simplicity or complexity of the issues raised.

An exception to this rule is if there is an allegation that the prosecution of the case was solely motivated by malice, such as when the case is politically motivated or when there is continued prosecution despite utter lack of evidence. Malicious intent may be gauged from the behavior of the prosecution throughout the proceedings. If malicious prosecution is properly alleged and substantially proven, the case would automatically be dismissed without need of further analysis of the delay.

Another exception would be the waiver of the accused to the right to speedy disposition of cases or the right to speedy trial. If it can be proven that the accused acquiesced to the delay, the constitutional right can no longer be invoked.

In all cases of dismissals due to inordinate delay, the causes of the delays must be properly laid out and discussed by the relevant court.

Fifth, the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent or the accused must file the appropriate motion upon the lapse of the statutory or procedural periods. Otherwise, they are deemed to have waived their right to speedy disposition of cases.[75] (Citations omitted, emphasis supplied)

Applying the foregoing to the instant case, Sps. Balucan et al. can invoke their right to the speedy disposition of their appeal as said right can be asserted in cases pending before quasi-judicial tribunals, e.g., the DAR. More, it cannot be denied that there was inordinate delay on the part of the DAR Secretary in resolving Sps. Balucan et al.'s appeal since it took eight years to resolve the same. Though there is no set period for the DAR Secretary to resolve appeals under DAR Administrative Order (A.O.) No. 03-03 or the 2003 Rules for Agrarian Law Implementation Cases, which govern cases involving the disqualification of actual farmer-beneficiaries under the government's agrarian reform program, guidance can be had from Book VI, Chapter 3, Section 14, of the Administrative Order which prescribes a 30-day period within which an agency must decide a case from its submission.

However, Sps. Balucan et al. failed to raise their right to speedy disposition of their appeal in a timely manner as the records of the case are

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[75] *Id.* at 880–882.

bereft of any showing that they asserted the foregoing right with the DAR. Relevantly, there is nothing in A.O. No. 03-03 which prohibit the filing of motions to resolve or other similar pleadings by parties to an appeal before the DAR Secretary. Thus, Sps. Balucan et al. are deemed to have waived their right to speedy disposition of their appeal due to their failure to timely assert the same.

Third, Sps. Nageli did not commit forum shopping when they filed the petition for disqualification before the DAR. In *Heirs of Mampo v. Morada*,[76] this Court explained how forum shopping is committed in this wise:

> Forum shopping is committed by a party who institutes two or more suits involving the same parties for the same cause of action, either simultaneously or successively, on the supposition that one or the other court would make a favorable disposition or increase a party's chances of obtaining a favorable decision or action. It is an act of malpractice that is prohibited and condemned because it trifles with the courts, abuses their processes, degrades the administration of justice, and adds to the already congested court dockets.
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> At present, the rule against forum shopping is embodied in Rule 7, Section 5 of the Rules, thus:
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> > **SECTION 5.** *Certification against forum shopping.* - The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.
> >
> > Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate

[76] 888 Phil. 583 (2020) [Per J. Caguioa, First Division].

> forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (n)
>
> There are two rules on forum shopping, separate and independent from each other, provided in Rule 7, Section 5: 1) compliance with the certificate of forum shopping and 2) avoidance of the act of forum shopping itself.
>
> To determine whether a party violated the rule against forum shopping, the most important factor is whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another. Otherwise stated, ***the test for determining forum shopping is whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought.***
>
> Hence, ***forum shopping can be committed in several ways: (1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is litis pendentia); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is res judicata); and (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either litis pendentia or res judicata).***
>
> These tests notwithstanding, what is pivotal is the vexation brought upon the courts and the litigants by a party who asks different courts to rule on the same or related causes and grant the same or substantially the same reliefs and, in the process, creates the possibility of conflicting decisions being rendered by the different fora upon the same issues.[77] (Citations omitted, emphasis supplied)

In *Spouses Ansok v. Tingas*,[78] this Court clarified the different concepts of *res judicata*, thus:

> Under the aforequoted provisions, there are two distinct concepts of *res judicata*; namely: (a) bar by prior judgment; and (b) conclusiveness of judgment. In *Sps. Ocampo v. Heirs of Bernardino U. Dionisio*, the Court explained these concepts as follows:
>
> > There is "bar by prior judgment" when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action. In this instance, the judgment in the first case constitutes an absolute bar to the second action.

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77 *Id.*

78 890 Phil. 1222 (2020) [Per J. Inting, Third Division].

> Otherwise put, the judgment or decree of the court of competent jurisdiction on the merits concludes the litigation between the parties, as well as their privies, and constitutes a bar to a new action or suit involving the same cause of action before the same or other tribunal.
>
> But where there is identity of parties in the first and second cases, but no identity of causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determine and not as to matters merely involved therein. This is the concept of *res judicata* known as "conclusiveness of judgment." Stated differently, any right, fact or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same.
>
> ***For res judicata under the first concept (bar by prior judgment) to apply, the following requisites must concur: (a) a former final judgment that was rendered on the merits; (b) the court in the former judgment had jurisdiction over the subject matter and the parties; and (c) identity of parties, subject matter and cause of action between the first and second actions. In contrast, the elements of conclusiveness of judgment are identity of: (a) parties; and (b) subject matter in the first and second cases.***[79] (Citations omitted, emphasis supplied)

Here, the cases filed by Sps. Nageli prior to the institution of their petition for disqualification against Sps. Balucan et al. are: (1) a criminal complaint against Sps. Balucan et al. and other individuals for estafa;[80] (2) a civil case for nullification of contract and recovery of the subject parcels of land which was dismissed for lack of jurisdiction by the trial court in 1997;[81] and (3) cancellation of contract and CLOAs before the DARAB which was likewise dismissed due to lack of jurisdiction in 2008.[82] Here, it is beyond cavil that Sps. Nageli did not commit any forum shopping when they filed their petition before the DAR since: (a) there is no identity of causes of action and relief sought between the criminal complaint and the petition for disqualification filed by Sps. Nageli against Sps. Balucan et al.; and (b) the dismissal of the prior cases filed by Sps. Nageli by the trial court and the DARAB does not have the force of *res judicata* since a dismissal based on lack of jurisdiction is not a judgment on the merits of the case.[83]

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79 *Id.*
80 *Rollo*, p. 36.
81 *Id.* at 38.
82 *Id.*
83 *Spouses Ansok v. Tingas*, 890 Phil. 1222 (2020) [Per J. Inting, Third Division].

Fourth, Sps. Balucan et al. claim that the DAR was unable to acquire jurisdiction over the persons of Sps. Nageli because they are foreigners and thus are not real parties-in-interest. With respect to the nationalities of Sps. Nageli, while it is true that Rudolf is a Swiss national,[84] Sps. Balucan were unable to adduce any proof regarding Lennie's foreign citizenship. As such, no error was committed by the DAR Secretary when it disregarded the foregoing claim by Sps. Balucan et al.

Nevertheless, this Court finds that Sps. Nageli are not real parties-in-interest in the disqualification case they filed before the DAR as they do not stand to be either harmed or benefited by the resolution of the same.

A real party-in-interest is defined as "the party who stands to be benefited or injured by the judgment in the suit or the party entitled to the avails of the suit."[85] In *Stronghold Insurance Company, Inc. v. Cuenca*,[86] this Court gave the following rationale why only a real party-in-interest should prosecute and defend an action at law: (1) to prevent the prosecution of actions by persons without any right, title, or interest in the case; (2) to require that the actual party entitled to legal relief be the one to prosecute the action; (3) to avoid a multiplicity of suits; and (4) to discourage litigation and keep it within certain bounds, pursuant to sound public policy.[87]

Here, it can be inferred that Sps. Nageli's interest in having Sps. Balucan et al. disqualified as ARBs is their purported ownership of the subject parcels of land. However, it must be noted that neither DAR-RO XI nor the DAR Secretary resolved Sps. Nageli's claim of ownership over the subject property or invalidated the voluntary land transfer which conveyed the subject parcels of land to Sps. Balucan et al. Even assuming *arguendo* that Sps. Nageli are in fact the true owners of the same, this Court in *Hermoso v. C.L. Realty Corporation*[88] held that landowners have no personality to question the qualifications of an ARB:

> The foregoing notwithstanding, the Court still rules for petitioners due to compelling reasons ostensibly overlooked by the appellate court. ***We start with respondent C.L. Realty's standing to question the qualification of the petitioners as CARP beneficiaries. As the DARAB Proper aptly observed***:
>
> It is the Municipal Agrarian Reform Officer (MARO) or the Provincial Agrarian Reform Officer (PARO) together with the Barangay Agrarian Reform Committee (BARC) who screen

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84 *Rollo*, p. 546.
85 RULES OF COURT, Rule 3, sec. 3.
86 705 Phil. 441 (2013) [Per J. Bersamin, First Division].
87 *Id.* at 455.
88 523 Phil. 221 (2006) [Per J. Garcia, Second Division].

> and select the possible agrarian beneficiaries. If there are farmers who claimed they have a priority over those who have been identified by the MARO as beneficiaries of the land, said farmers can file a protest with the MARO or the PARO who is currently processing the Land Distribution Folder (Administrative Order No. 10, Series of 1990).
>
> . . . ***The landowner, however, does not have the right to select who the beneficiaries should be. Hence, other farmers who were not selected and claimed they have a priority over those who have been identified as such can file a written protest with the MARO or the PARO who is currently processing the claim folder.***

Denying a landowner the right to choose a CARP beneficiary is, in context, only proper. For a covered landholding does not revert back to the owner even if the beneficiaries thus selected do not meet all necessary qualifications. Should it be found that the beneficiaries are indeed disqualified, the land acquired by the State for agrarian reform purposes will not be returned to the landowner but shall go instead to other qualified beneficiaries.

....

Respondent's ploy for conversion having failed, and the CLOAs having been issued, ***respondent resorted to seeking the cancellation of said CLOAs on the basis of the lack of qualifications of the beneficiaries and the pendency of its application for conversion***. Needless to stress, respondent pursued a strange course of action considering that, originally, its only grievance related to property valuation.

As stated earlier, respondent was without personality to question the selection of beneficiaries. However, even if it had such personality, its arguments against petitioners' qualifications as farmer-beneficiaries do not bear sufficient weight to peremptorily justify the cancellation of the issued CLOAs. It may be that the petitioners were employed or self-employed. This reality, however, even if true, does not per se argue against their qualifications as CARP beneficiaries at the time the award was made. For all the law requires, in the minimum, is that the prospective beneficiary be a landless resident preferably of the barangay or municipality, as the case may be, where the landholding is located, provided he has, in the language of Section 22 of RA 6657, the "willingness, aptitude and ability to cultivate and make the land as productive as possible". A farmer-beneficiary need not undertake every chore in the cultivation of the farmholding all by his personal self; he may be assisted in the farm work and the care of plants by his immediate farm household without forfeiting his right to continue as such beneficiary.[89] (Citations omitted, emphasis supplied)

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[89] *Id.* at 231–234.

More, the DAR has limited the parties who can file disqualification cases against ARBs to: (1) potential agrarian reform beneficiaries; and (2) concerned parties, i.e., farmer's organizations whose members are potential agrarian reform beneficiaries and the Provincial Agrarian Reform Officer.[90] Here, Sps. Nageli are neither potential agrarian reform beneficiaries nor do they represent potential agrarian reform beneficiaries. Hence, based on its own rules, the DAR should have perforce dismissed Sps. Nageli's petition for disqualification as they are not a proper party to file the same.

In *Mutilan v. Mutilan*,[91] this Court held that "persons having no material interest to protect cannot invoke a court's jurisdiction as the plaintiff in an action"[92] and "[n]or does a court acquire jurisdiction over a case where the real party in interest is not present or impleaded."[93]

It is hornbook doctrine that an act done by a court or tribunal without jurisdiction is null and void and without any legal effect.[94] Considering that the DAR was unable to acquire jurisdiction over the disqualification case filed by Sps. Nageli since they are not real parties-in-interest that can initiate the same, the DAR Orders are null and void and have no legal effect.

Atty. Aportadera is Not Guilty of Contempt.

Contempt of court has been defined as a willful disregard or disobedience of a public authority.[95] In a broad sense, contempt is a disregard of, or disobedience to, the rules or orders of a legislative or judicial body or an interruption of its proceedings by disorderly behavior or insolent language in its presence or so near thereto as to disturb its proceedings or to impair the respect due to such a body. In its restricted and more usual sense, contempt comprehends a despising of the authority, justice, or dignity of a court.[96]

Contempt of court is of two kinds, namely: direct contempt, which is committed in the presence of or so near the judge as to obstruct them in the administration of justice; and constructive or indirect contempt, which consists of willful disobedience of the lawful process or order of the court.[97]

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[90] *See* Inclusion/Exclusion/Disqualification of ARBs at http://www.lis.dar.gov.ph/documents/6747 (last accessed on October 27, 2023).

[91] G.R. No. 216109, February 5, 2020 [Per J. Leonen, Third Division].

[92] *Id.*

[93] *Id.*

[94] *Bilag v. Ay-Ay*, 809 Phil. 236 (2017) [Per J. Perlas-Bernabe, First Division].

[95] *Castillejos Consumers Association, Inc. v. Dominguez*, 757 Phil. 149 (2015) [Per J. Mendoza, Second Division].

[96] *Bautista v. Yuijico*, 841 Phil. 74, 84 (2018) [Per J. Reyes, Second Division].

[97] *Lorenzo Shipping Corporation v. Distribution Management Association of the Philippines*, 672 Phil. 1 (2011) [Per J. Bersamin, First Division].

Section 3, Rule 71 of the Rules of Court provides that the following acts may be punished as indirect contempt:

> **Section 3.** *Indirect contempt to be punished after charge and hearing.* — After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt;
>
> (a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
>
> (b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
>
> (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;
>
> (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
>
> (e) Assuming to be an attorney or an officer of a court, and acting as such without authority;
>
> (f) Failure to obey a subpoena duly served;
>
> (g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.
>
> But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

Proceedings for indirect contempt may be initiated: (1) *motu proprio* by the court against which the contempt was committed; or (2) by an interested party through the filing of a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned.[98]

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[98] RULES OF COURT, Rule 71, sec. 4.

In this case, the complaint for indirect contempt against Atty. Aportadera was initiated by Sps. Nageli through a mere motion and not through a verified petition as required by procedural rules. On this score alone, this Court can already dismiss it.[99] In any case, Atty. Aportadera's failure to furnish a copy of his clients' initiatory pleading to Sps. Nageli's counsel-of-record, though negligent, does not amount to contemptuous conduct that should be punished by this Court.

It is settled that the power to hold persons in contempt should be exercised only in cases of clear and contumacious refusal to obey.[100] Here, Atty. Aportadera did not exhibit obstinate refusal to obey the directives of this Court. While Atty. Aportadera clearly erred when he failed to send a copy of the present petition to Sps. Nageli's current counsel, he rectified such error by immediately complying with this Court's directive and furnishing Sps. Nageli's counsel-of-record with a copy of the present petition.

ACCORDINGLY, the instant Petition is **GRANTED**. The Decision dated July 21, 2021 and the Resolution dated July 6, 2022 issued by the Court of Appeals in CA-G.R. SP No. 09851 are **SET ASIDE**. The Order dated October 3, 2011 issued by the Department of Agrarian Reform-Regional Office No. XI in DAR Case No. A-1100-0035-10 and the Order dated January 26, 2020 issued by the Secretary of the Department of Agrarian Reform in ADM Case No. A-9999-11-B1-116-12 are **ANNULLED** for having been rendered without jurisdiction.

The motion to hold Atty. Alberto Rafael L. Aportadera in contempt is **DENIED** for being procedurally infirm and for lack of merit.

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

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[99] *Regalado v. Go*, 543 Phil. 578, 599 (2007) [Per J. Chico-Nazario, Third Division].
[100] *Bank of the Philippine Islands v. Calanza*, 647 Phil. 507, 514 (2010) [Per J. Nachura, Second Division].

WE CONCUR:

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
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 this Court's Division.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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 this Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice