104 Phil. 143

[G. R. No. L-11567. July 17, 1958]

ARSENIO FERRERIA, ET AL., PETITIONERS AND APPELLEES VS. MANUELA IBARRA VDA. DE GONZALES, ET AL., RESPONDENTS AND APPELLANTS.

D E C I S I O N

MONTEMAYOR, J.:

This is quite an old case, about a landlord and some of her tenants, which had its origin in a complaint filed by some of said tenants way back on February 3, 1947. The thing involved is about twenty cavans of palay. But under the present law, the appeal from a resolution of the Court of Agrarian Relations had to come directly to this Tribunal.

Manuela Ibarra Vda. de Gonzales presumably owned a parcel of land in Umingan, Pangasinan, cultivated by tenants. After the sharing of the crop for the agricultural year 1946-47 by her overseer, Luis Tecson, a number of the tenants, dissatisfied with their share on the basis of 60-40, claiming that they were entitled to 70% of said crop, filed complaints with the Tenancy Division of the Department of Justice. It would appear, however, that only tenant Arsenio Ferreria continued with his complaint, his co-complainants having withdrawn theirs. Ferreria's complaint was filed not only against Manuela Ibarra, but also against the overseer, Luis Tecson. During the pendency of the case, Manuela died on November 27, 1948. Counsel for Ferreria filed a petition for substitution which was granted by order of the Department of Justice, dated December 9, 1948, which also set the case for hearing on January 6, 1949.

The said order of December 9, 1948, at the bottom thereof, made mention of Manolita Gonzales as residing at 272 Buendia St., Rizal City. The return of service of said order supposedly by the Sheriff (Annex C), shows that a copy of the same was left with one Aurora Gonzales, niece of Manolita Gonzales, apparently living in said address. It may be stated in passing that Manolita Gonzales claims that she did not own the land in question; that her only right and interest in it was as an heir, being one of the five surviving children of

Manuel.

The scheduled hearing was held in the absence of Manolita Gonzales. Decision was finally rendered in the case on May 18, 1951. On May 23, 1952, the Court of Industrial Relations, then in charge of tenancy cases, issued a writ of execution of the judgment, the dispositive part of said decision in part reading as follows:

> "IN VIEW OF ALL THE FOREGOING, the respondent landlord and/or her duly authorized representative is/are hereby ordered to deliver to the petitioner-tenant Arsenio C. Ferreria the balance of 20.6 cavanes of palay equivalent to 10% of his share to complete his 70% participation in the crop harvested for the agricultural year 1946-1947, or its money value at the Naric price of palay in the locality, within 15 days from receipt of this decision."

Another portion of the dispositive part reproduced, states that the complaints of the other complainants were dismissed.

On receipt of a copy of this writ of execution, Luis Tecson and Manolita Gonzales each filed a petition to set aside said writ. Luis claimed that it was true that he was an overseer of Manuela Ibarra, but that upon her death on November 27, 1948, the possession that he held of the land as overseer passed on to the administrator of the estate; that thereafter, he no longer had anything to do with said property, and that in the distribution of the crop for 1946-1947, the share of Manuela was duly delivered by him to her, and that any claim by Ferreria should be filed with and against her estate. On her part, Manolita claimed that she was surprised to receive a copy of the writ of execution because she was never made a party to the case and had never been served any process or notice of hearing therein, and that an examination of the record of the case would show that from the inception of the case up to the rendering of the decision, her name was never mentioned by any of the parties, and that it was a surprise to find her name included in the title of the decision as one of the defendants, although the body of said decision never mentioned her name; that although she was one of the five heirs of Manuela Ibarra, she, Manolita, was not the actual owner of the estate which was then under probate proceedings in the Court of First Instance of Rizal; and that if Ferreria had any claim against the estate, he should file the same to be passed upon by the probate court. Both Luis and Manolita asked that the writ of execution be set aside.

It would seem that nothing was done about the petitions, and after the creation of the Court of Agrarian Relations, Judge Tomas P. Panganiban finally took action on the same, and by order of August 23, 1956, overruled the same, holding that under the law creating the Court of Agrarian Relations, said court had exclusive and original jurisdiction to try, investigate, and settle all cases, matters and disputes arising between landlord and tenant, and that the case at bar was purely a dispute between landlord and tenant. Both petitioners Luis and Manolita asked for reconsideration of the order, Manolita emphasizing her contention that she was deprived of her day in court due to the failure of plaintiff Ferreria to make the proper substitution, citing Rule 3, Section 17, above-reproduced. In a resolution dated October 29, 1956, the Agrarian Court held that Manuela Ibarra had been duly substituted by Manolita Gonzales, and that service of the order of substitution was duly served upon her. We reproduce the pertinent portion of the resolution:

> "Anent the first ground, it appears that respondent Manuela Ibarra Vda. de Gonzales was duly substituted upon her death by Manolita Gonzales Vda. de Carungcong in a petition filed by counsel for the petitioners on December 9, 1948, and granted by the representative of the former Tenancy Division, now Court of Agrarian Relations, on the same date. A copy of the order granting the petition for substitution was sent to Manolita Gonzales Vda. de Carungcong, through the Chief of Police of Rizal City, by registered mail on December 9, 1948. Therefore, respondent Manolita was duly notified of the hearing set on January 6, January 26, March 26, April 21, May 7, June 7, and July 1, all in the year 1949, but these hearings had to be cancelled due to the absence of the respondents on January 6, 1949 and their several motions for postponement on the subsequent dates. On July 2, 1949, the hearing proceeded in the absenee of the respondents during which petitioners presented their evidence. Notwithstanding several chances given to the respondents to present their evidence on August 5, 1949 and September 20, 1949, respondents persistently failed to appear. However, on February 3, 1950, counsel for the respondents cross examined one witness of the petitioners and finally, on March 4, 1950 respondents presented ttieir evidence, with the exception of Manolita Gonzales de Carungeong (who) never appeared."

The Agrarian Court further said that if Manolita did not care to appear before the former Tenancy Division, she cannot now complain that she was deprived of her day in court; and that as to Luis Tecson, since the decision orders "the respondent landlord and/or her duly

authorized representative" to deliver to the petitioner Ferreria the balance of 20.6 cavans of palay, Luis Tecson, as overseer and duly authorized representative of the landlord, must comply with the decision of the court, and that his counsel's contention that the property involved was within the jurisdiction of the probate court was incorrect, for the reason that the palay ordered to be delivered, properly belonged to Ferreria as his share in the crop and, therefore, it was not part of the estate under administration, neither was it a claim against the estate.

Both Manolita and Luis have filed the present petition to review the order of August 23, 1956, denying the petitions to lift the writ of execution and the order of October 29, 1956, denying the petition for reconsideration. The petition was given due course and appellee Ferreria was required to answer, which he did. Thereafter, both parties filed memoranda in support of their contentions.

The first question to be determined is whether or not there was a valid notification or service of the order granting the petition for substitution on Manolita Gonzales. It will be remembered that a copy of the order was never served on Manolita personally, but upon her niece, Aurora Gonzales. In other words, it was substituted service. Section 8, Rule 7, regarding the service of summons, provides as follows:

> "SEC. 8. *Substituted service*.—If the defendant cannot be promptly served as required in the preceding section, service may be effected by leaving copies of the summons at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof or upon the defendant by registered mail."

As to the service of court orders, we have Sections 3 and 4 of Rule 27, which read as follows:

> "SEC. 3. *Modes of service*.—Service of pleadings, motions, notices, orders, judgments and other papers shall be made either personally or by mail."
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> "SEC. 4. *Personal service*.—Service of the papers may be made by delivering personally a copy to the party or his attorney, or by leaving it in his office with his clerk or with a person having charge thereof. If no person is found in his

> office, or his office is not known, then by leaving the copy, between the hours of eight in the morning and six in the evening, at the party's or attorney's residence, if known, with a person of sufficient discretion to receive the same."

We find that under none of these above-quoted provisions of the Rules of Court had Manolita been duly served with the order of substitution. According to her, at the time, she was not living at 272 Buendia St., where copy of the order was left with Aurora who lived in that place. The rules require that the copy should be left at the residence or office of the one served, or with someone living therein. Furthermore, Manolita claims that she never received the copy left with her niece and that they were not living together.

The other question is whether or not there had been a valid substitution. Rule 3, Section 17, of the Rules of Court provides as follows:

> "SEC. 17. *Death of party.*—After a party die and the claim is not thereby extinguished, the court shall order, upon proper notice, the legal representative of the deceased to appear and to be substituted for the deceased, within a period of thirty (30) days, or within such time as may be granted. If the legal representative fails to appear within said time, the court may order the opposing party to procure the appointment of a legal representative of the deceased within a time to be specified by the court, and the representative shall immediately appear for and on behalf of the interest of the deceased. The court charges involved in procuring such appointment, if defrayed by the opposing party, may be recovered as costs. 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 guardian ad litem for the minor heirs."

In the present case, there is no question that there had been no court order for the legal representative of Manuela Ibarra to appear, nor had any such legal representative ever appeared in court to be substituted for the deceased; neither had complainant Ferreria ever procured the appointment of such legal representative of the deceased, nor had the heirs of the deceased, including Manolita ever asked to be allowed to be substituted for the deceased Manuela. As a result, the hearings were held without the presence of Manolita Gonzales. True, Atty. Emilio Fernandez, it seems, originally represented Manuela and

apparently, Luis Tecson, and continued with their representation, but Manolita now argues that with the death of Manuela Ibarra, his relationship as counsel for Manuela ceased, and what is more, he was never authorized to appear for Manolita Gonzales. Inasmuch as Manolita Gonzales was never validly served a copy of the order granting the substitution and that, furthermore, a valid substitution was never effected, consequently, the court never acquired jurisdiction over Manolita Gonzales for the purpose of making her a party to the case and making the decision binding upon her, either personally or as legal representative of the estate of her mother Manuela.

However, we agree with the Agrarian Court in so far as it holds that it has exclusive jurisdiction over cases involving tenancy. The fact that the landlord dies does not mean that the relation of Landlord and tenant ends, because the estate continues to be the landlord and if, as in this case, it is found that during the lifetime of Manuela Ibarra, the sharing of crop for the agricultural year 1946—1947 should have been on the basis of 70—30, instead of 60—40, and therefore, she owed Ferreria 10% of said crop, then said obligation remained a charge on her estate after she died and there was no necessity for the tenant to file a claim for this 10% with the probate court in charge of the estate.

As to Luis Tecson, we agree with him in his contention that in the sharing of the crop for the agricultural year 1946—1947, he acted merely as an overseer and that he gave the share corresponding to the owner to Manuela, and that since then, specially after her death, he had nothing more to do with the land. It is clear that the obligation to deliver to tenant Ferreria 10% of that crop of the agricultural year, should it be later found that the basis should have been 70-30, instead of 60—40, rests with the estate of Manuela through the administrator and not with Luis Tecson, whose relation as overseer had long ceased.

In connection with the basis of sharing of the crop for the agricultural year 1946—1947, Manolita in her pleadings claims that her mother furnished the work animals, seeds, and other facilities used in the cultivation and that consequently, the share should have been on the 50—50 basis. Ferreria claims the contrary. These conflicting claims should be finally determined by the Agrarian Court.

In view of the foregoing, we hereby set aside not only the writ of execution, the resolution of the Agrarian Court and its order denying the motion for reconsideration of the same, now sought to be reviewed, but also the original decision of the Tenancy Division for lack of jurisdiction. The case is hereby ordered remanded to the Court of Agrarian Relations for further proceedings, in which proceedings, the Agrarian Court may bear in mind and

consider the rulings and holdings contained in this decision, specially with regards to substitution of parties and the liability of Luis Tecson in relation to any palay which Ferreria may be found to be entitled to. No costs.

Paras, C. J., Bengzon, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., Endencia, and *Felix, JJ.,* concur.

Date created: October 14, 2014