

VIDAL BERNARDO AND JESUS SILVERIO, PETITIONERS, VS. COURT OF APPEALS (4TH DIVISION) AND TROPICAL HOMES, INC., RESPONDENTS.

G.R. No. L-30821. December 14, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review by certiorari which has been pending for seventeen years now. As per its resolution dated 1 September 1986 (p. 144, Rollo), this Court ordered the parties to manifest "whether or not they are still interested in prosecuting this case, or supervening events have transpired which render the case moot and academic or otherwise substantially affect the same." Counsel for petitioners has expressed that he has never seen nor has communicated with his clients "for ten (10) years or more" and is therefore without knowledge of their interest in pursuing this case (Manifestation with Explanation, p. 152, Rollo). On the other hand, both respondent Tropical Homes, Inc. (TROPICAL, for short) and its counsel could not be found at their addresses of record. Nevertheless, under the circumstances We cannot as yet consider this case as moot and academic. We therefore will resolve the same.

The facts, as found by the Court of Appeals, are as follows:

"On January 29, 1969, the respondents tenants, Vidal Bernardo and Jesus Silverio, filed a verified complaint with the Court of Agrarian Relations, Sixth Regional District, Branch III, Pasig, Rizal, CAR Case No. 442-Rizal '69, against Mercedes Tomas and the petitioner, Tropical Homes, Inc., alleging that they are the agricultural lessees of Mercedes Tomas of a 2-hectare rice landholding; that on January 16 and 17, 1969, petitioner herein, in conspiracy with its co-defendant Mercedes Tomas, who had apparently sold the landholding aforementioned to the petitioner to be converted for residential purposes, without any written notice to the plaintiffs in said case, now private respondents herein, nor any verbal report to them and without their permission and against their will and consent, forcibly bulldozed a small portion of their landholding and destroyed the earth embankments (pilapiles) existing thereon; and that despite their protest to refrain from said acts, Tropical Homes, Inc. and its henchmen continued the bulldozing of the landholding of the private respondents. The plaintiffs in the abovementioned case prayed in their verified complaint for the issuance ex parte of a writ of preliminary injunction to restrain the defendants therein from continuing with the bulldozing of their landholding.

"Pursuant to the verified complaint and motion for a writ of preliminary injunction, the respondent Judge, pending the hearing of said motion, issued on January 31, 1969, an order temporarily restraining and enjoining Mercedes Tomas and the Tropical Homes, Inc., their agents, representatives and/or their hired contractors to cease and desist from bulldozing or causing the performance of any kind of work over the landholding that would have the effect of dispossessing the plaintiffs therein.

"The defendants abovementioned were given five (5) days from receipt of notice of said order within which to file their reply or objection to the motion for issuance of the writ of preliminary prohibitory injunction and said motion was set for hearing on February 6, 1969, at 9:30, A.M. The defendants in said case were summoned on

January 30, 1969, and were notified of the temporary restraining order of January 31, 1969, on the latter date.

"On February 3, 1969, petitioner Tropical Homes, Inc. filed an ex parte motion to lift the temporary restraining order, including its opposition to the issuance of the writ of preliminary injunction.

"On February 6, 1969, Tropical Homes, Inc. filed an ex parte motion to stay the proceedings and asked that the hearing of the motion for preliminary injunction set for February 4, 1969, be held in abeyance pending action by this Court on this petition for certiorari with preliminary injunction, filed by the petitioner on February 5, 1969, to nullify the restraining order of January 31, 1969.

"The respondent Judge by order of February 7, 1969, held in abeyance the hearing of the motion for preliminary injunction until this Court shall have decided the instant petition, and on February 8, he issued an order denying the motion to lift the temporary restraining order of January 31, 1969.

"A writ of preliminary injunction was issued by this Court on February 17, 1969, enjoining and restraining the respondents from enforcing the order of January 31, 1969, upon the filing of a bond in the sum of P1,000.00." (pp. 67-70, Rollo)

Ruling in favor of TROPICAL, respondent Court of Appeals (CA for brevity) construed the restraining order issued by the Agrarian Court dated 31 January 1969 as "practically a writ of preliminary injunction" (p. 76, Rollo) and therefore irregularly issued as no prior hearing was conducted and that no bond was posted as required under Sections 4 and 5 of Rule 58 of the New Rules of Court. The CA also applied Section 14 of the Code of Agrarian Reform (R.A. 3844) as invoked by TROPICAL and interpreted Section 36(1) of the same Code, the basis of petitioners' claim of right, thus,

"... ejectment proceedings should take precedence only in cases where the owner himself or a member of his immediate family undertakes the conversion in good faith of the agricultural landholding into a residential subdivision. In such case the provisions of Section 36(1) requiring final court order for ejectment of the lessee would be applicable." (p. 75, Rollo)

prompting the petitioners to file this petition for review.

Culling from the respective briefs of the parties, this Court is now tasked to determine the validity of the restraining order in question and the proper application of Sections 14 and 36(1) of R.A. 3844.

It is to be noted that the first matter in issue is procedural in nature. And in the disposition of this issue, the basic legal truth in Remedial Law that laws of procedure may be retroactively applied provided no substantial rights are impaired is of principal importance. The pertinent legal provision under consideration is section 5 of Rule 58 of the New Rules of Court. It is worthy to note that in 1982, several years after the questioned temporary injunction was issued by the Court of Agrarian Relations (CAR, for short) Judge Pastor Reyes, the defunct Batasang Pambansa enacted B.P. Blg. 224 which substantially amended said Section 5 of Rule 58 to read as follows:

"Sec. 5. Preliminary injunction not granted without notice; issuance of restraining order.- No preliminary injunction shall be granted without notice to the defendant. If it shall appear from the facts shown by affidavits or by the verified complaint that great or irreparable injury would result to the applicant before the matter can be heard on notice, the judge to whom the application for preliminary injunction was made, may issue a restraining order to be effective only for a period of twenty days from date of its issuance. Within the said twenty-day period, the judge must cause an order to be served on the defendant, requiring him to show cause, at a specified time and place, why the injunction should not be granted, and determine within the same period whether or not the preliminary injunction shall be granted and shall accordingly issue the corresponding order. In the event that the application for preliminary injunction is denied, the restraining order is deemed automatically vacated.

"Nothing herein contained shall be construed to impair, affect or modify in any way any rights granted, by, or rules pertaining to injunctions contained in, existing agrarian, labor or social legislation." (Underscoring ours)

Applying now the above law to the case at bar, it is clear that the Court, in this case the CAR, can issue a restraining order which is to last for only twenty (20) days and which is clearly distinct from the writ of injunction applied for. This restraining order may be issued by the judge despite the absence of a prior hearing as long as it could be shown by affidavits or in the verified complaint that great or irreparable injury would be suffered by the applicant. There being no substantial rights affected, We rule that the temporary injunction of 31 January 1969 is not equivalent to the writ of preliminary injunction prayed for by petitioners in their verified complaint, thus, no bond nor prior hearing is necessary since its purpose is merely to maintain the status quo (B.F. Inc. vs. CA, G.R. No. L-30690, November 19, 1982).

It is clear from the law that the issuance of the restraining order is left to the sound discretion of the judge whenever he deems that grave or irreparable injury on the part of the applicant commands it. We do not doubt the CAR Judge's discretion. He was correct in his observation (Motion for Reconsideration, p. 80, Rollo) that "security of tenure is a legal concession to agricultural lessees which they value as life itself and deprivation of their landholdings is tantamount to deprivation of their and their families (sic) only means of livelihood." Such dispossession, therefore, in the context of this case, is indeed a grave injury which social justice seeks to vindicate. Unfortunately, however, considering that this case had been pending for a long time now, We leave it to the proper Court presently having jurisdiction over this case, subject to the parties' intention to pursue or not this litigation, to determine the possibility of enforcing the lower court's restraining order in the light of the physical changes which might have ensued.

Coming now to the matter involving sections 14 and 36(1) of R.A. 3844, We disagree with the respondent Court's ruling that:

"We hold that ejectment proceedings should take precedence only in cases where the owner himself or a member of his immediate family undertakes the conversion in good faith of the agricultural landholding into a residential subdivision. In such case the provisions of Section 36(1) requiring final court order for ejectment of the lessee would be applicable." (p. 75, Rollo)

As correctly pointed out by Judge Reyes of the CAR,

"The purchaser of the landholding is subrogated to the rights and substituted to the obligations of the agricultural lessor (Sec. 10, Rep. Act No. 3844), hence, the agricultural leasehold relationship continues between the agricultural lessee and the purchaser automatically by operation of law and the latter, as agricultural lessor, is bound to respect the agricultural lessee's possession and cultivation of the land." (Motion for Reconsideration, p. 79, Rollo).

This being the case, TROPICAL is bound to respect the possession of the petitioners as leasehold tenants over the land in question pursuant to the latter's right to security of tenure as enshrined in Sections 9, 10 and 36 of R.A. 3844. To hold otherwise would render nugatory one of the primary reasons for the enactment of said law.

Respondent TROPICAL, in an attempt to justify its dispossession acts against petitioners, invoke the provisions of Section 14[*] of R.A. 3844 (p 28, Rollo). However, this Court does not find the pertinence of such provision in the case at bar. The repealed section 14 stated:

"Sec. 14. Right of Pre-emption and Redemption not Applicable to Land to be Converted into Residential, Industrial and Similar Purposes.- The right of preemption and redemption granted under Sections eleven and twelve of this Chapter cannot be exercised over landholding suitably located which the owner bought or holds for conversion into residential, commercial, industrial or other similar non-agricultural purposes: Provided,

however, That the conversion be in good faith and is substantially carried out within one year from the date of sale. Should the owner fail to comply with the above condition, the agricultural lessee shall have the right to repurchase under reasonable terms and conditions said landholding from said owner within one year after the aforementioned period for conversion has expired: Provided, however, That the tenure of one year shall cease to run from the time the agricultural lessee petitions the [Land Authority] to acquire the land under the provisions of paragraph 11 of Section fifty one."

Clearly, this defunct section establishes the right of the tenant-lessee to pre-empt the sale of his landholding or redeem the same if its sale had already been consummated. However, a reading of the petitioner's complaint filed with the CAR (pp. 20-24, Rollo) does not reveal any desire on their part to exercise this right; what they express, however, is their eagerness to work on their landholdings as tenants-lessees. They invoke, therefore, their right to security of tenure. And pursuant to section 36 of R.A. 3844, the agricultural lessee cannot be dispossessed of his landholding except by a Court order that is final and executory. Hence, in conjunction with section 10 of R.A. 3844, the mandatory requirement of Section 36 may never be overlooked by respondents. Nor may they invoke the provisions of the repealed section 14, even if it were still applicable today.

WHEREFORE, PREMISES CONSIDERED, this petition is granted and the appealed decision of the Fourth Division of the respondent Court of Appeals dated 15 July 1969 is hereby reversed, without pronouncement as to costs. It is further instructed that the records of CAR Case No. 442-Rizal '69, filed with the then Court of Agrarian Relations, Sixth Regional District, Branch III, be remanded to the proper court now having jurisdiction for trial on the merits, conditioned on the interest of the parties to pursue this case.

SO ORDERED.

Melencio-Herrera, (Chairperson), Padilla, Sarmiento, and Regalado, JJ., concur.

[*] At this point, it is worthy to note that said section 14 had been repealed by section 3 of R.A. 6389, dated 10 September 1971. But in order to settle the contro-versy once and for all, we shall treat the matter as if no such repeal had been made.

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