PHILIPPINE NATIONAL BANK, PETITIONER, VS. SABADO WALANG, RADDINIO SECUAN AND JULIA LABNAS, RESPONDENTS.

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is a Petition for Review[1], which seeks to annul the decision dated June 14, 2005 of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB Case No. 12860 (Reg. Case No. 0007-03-B-CAR) entitled "Sabado Walang, Raddinio Secuan, and Julia Labnas, Plaintiffs-Appellees, vs. Philippine National Bank, La Trinidad Branch, represented by its Branch Manager Christine Marie Rillea, Defendant-Appellant, the dispositive portion of which reads:

> "WHEREFORE, premises considered, a decision is hereby rendered maintaining the plaintiffs-appellees as tenants/cultivators on the subject landholding until the final determination that they are the qualified farmer beneficiaries on the subject landholding without prejudice to the filing of proper petition or protest on the part of the herein defendant before the proper forum, the Office of the Secretary of the Department of Land Reform.
>
> No pronouncement as to cost.
>
> SO ORDERED.[2]

The facts are:

The property involved in this case is a 10,967-square meter land located at Puguis, La Trinidad, Benguet and covered by TCT No. 45975[3] which was owned by the late Saleng Paredes (a.k.a. Saling Paredes, Saling Felipe or Saleng Silvada), married to the late Leonard Silvada.

The spouses had five children namely: private respondent Julia S. Labnas; Mercedes S. Walang (deceased) who was married to private respondent Sabado Walang, Victoria S. Velligas, Alberto S. Silvada, and Agustin Silvada.

On March 12, 1996, a certain Eden and Victoria Villegas, as principal borrowers, together with Saleng Paredes, as co-borrower, obtained a loan[4] in the amount of P1.2M from petitioner Philippine National Bank (PNB for brevity), with the subject land as collateral.[5]

The borrowers failed to pay the said loan which resulted in the foreclosure of the subject land. Thereafter, petitioner PNB consolidated[6] its title over the subject land and was issued TCT No. T-45975 and Declaration of Real Property No. 99-013-02777[7].

Petitioner PNB filed an Ex-Parte Petition for Writ of Possession under Section 7 of Act No. 3135 before the Regional Trial Court of La Trinidad Benguet, Branch 8. Private respondents opposed the same but the lower court, on March 27, 2003, issued an order for the immediate enforcement of the writ of possession in favor of petitioner PNB.

Meanwhile, on June 23, 2000, several heirs of Leonard Silvada and Saleng Paredes, including private respondent

Walang filed a Complaint for Annulment of Mortgage, Certificate of Sale with Injunction[8] before the Regional Trial Court of Benguet, docketed as Civil Case No. 2K-CV-1509. This case was however dismissed[9] on July 13, 2001.

On September 28, 2000, the subject land was acquired by the government thru Compulsory Acquisition[10] to be distributed to qualified farmer beneficiaries under its Comprehensive Agrarian Reform Program.

On October 9, 2000, private respondents Walang and Secuan filed a Petition for Annulment of Sale and/or Redemption, with Prayer for the Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction[11] with the DARAB, Cordillera Administrative Region, Branch 1, docketed as DARAB Case No. 0077-2000-B-CAR. This was decided on December 21, 2001[12] in favor of private respondents, the dispositive portion of which reads:

> "WHEREFORE, premises considered, a Decision is hereby rendered as follows:
>
> - Declaring petitioners Sabado Walang and Radino Secuan to have the right to exercise legal redemption of the subject landholding with an area of 10,967 square meters in the amount of Five Hundred Thousand Pesos (P500,000.00) pursuant to Section 12 of RA No. 6389, as amended, and they are directed to deposit said amount to a reputable bank of their own choice and to inform the Board (of) such deposit within a reasonable period;
>
> - Annulling the Certificate of Sale executed in favor of respondent Bank as well as its new title if there be, and;
>
> - Directing the Registry of Deeds of Benguet to cause the cancellation of respondent PNB's title and in lieu thereof, to issue a new one in favor of petitioners.
>
> No pronouncement as to cost.
>
> SO ORDERED.[13]

On February 11, 2002, petitioner PNB appealed[14] the said decision, but the same remains unresolved.

In a Memorandum[15] dated August 28, 2002, the Department of Agrarian Reform, Provincial Agrarian Reform Office, thru its Provincial Agrarian Reform Officer Deogracias F. Almora, informed petitioner PNB of the Notice of Land Valuation and Acquisition wherein the subject land was valued at P542,864.86, subject to price adjustments.

On August 30, 2002, petitioner PNB, thru its Branch Manager in La Trinidad, Benguet, Christine Marie Rillera, rejected[16] the valuation offered for the subject land.

On May 19, 2003, private respondents filed a Complaint against petitioner PNB for Peaceful Possession with Prayer for Preliminary Injunction and/or Temporary Restraining Order[17] with the DARAB CAR Branch 1, docketed as DARAB Case No. 0007-03-B-CAR.

On June 23, 2003, petitioner PNB filed a Motion to Dismiss[18] the said case.

However, on August 8, 2003, private respondents filed an Ex-parte Urgent Motion for Status Quo Order when several men of petitioner PNB and Sheriff Henry B. Longay of the lower court, proceeded to the subject land and attempted to fence the same.

On the same date, the adjudicator issued a cease and desist order[19] against petitioner PNB, enjoining it and its agents from fencing the subject land pending the resolution of the case.

On December 4, 2003, the DARAB CAR rendered a decision[20] in the said case, the dispositive portion of

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which reads:

> "WHEREFORE, premises considered, and in order to put this case to rest so that herein complainants will now harvest the fruit of said decision and in the further interest of agrarian justice, judgment is hereby rendered as follows:
>
> - Ordering the Philippine National Bank (PNB) La Trinidad, Benguet Branch to now withdraw the sum of Five Hundred Thousand Three Hundred Fifty Nine and 89/100 (P595,359.89) in cash and in Agrarian Reform Bond on November 19, 2002 as compensation for 1.011884, of parcel of land situated at Ruguis, La Trinidad, Benguet covered by title no. T-4975 in the name of Philippine National Bank pursuant to R.A. 6657. This serves as the legal redemption price for the subject landholding referred to in the decision rendered dated December 21, 2001 and afterwhich the herein plaintiff is hereby ordered to pay Land Bank of the Philippines the afore-stated amount in accordance with the manner of payment as prescribed by law;
>
> - Ordering again the Register of Deeds of Benguet to cancel the PNB title referred to in No. 1 above if she has not yet complied with it and in lieu thereof, issue a new one in favor of herein plaintiffs; and
>
> - Ordering herein defendant to remove the fence which they have installed around the property subject of this case, if they desire to do so at their own expense.
>
> SO ORDERED.

On January 5, 2004 petitioner PNB filed a Motion for Reconsideration. This was denied on February 5, 2004[21] because the same was considered a mere scrap of paper for failure of the petitioner PNB's Branch Manager, Christine Rillera or its counsel to affixed her signature.

Petitioner PNB filed a Motion for the Resolution of the Motion for Reconsideration on The Merits which was granted on February 9, 2004.

On March 5, 2004, an order[22] was issued by the DARAB-CAR, the dispositive portion of which reads:

> "WHEREFORE, premises considered, resolve as it is hereby resolved to DENY the motion for reconsideration. Considering however that the dispositive portion of the decision rendered on December 4, 2003 by then Adjudicator Napoleon Baguilat did not address the reliefs sought for by the petitioners in their petition, the same is hereby ordered modified and a new one is hereby issued to wit:
>
> - Ordering the defendant from disturbing the peaceful possession and cultivation of the petitioners over the subject landholding; and
>
> - Directing the defendant, its agents and/or representatives from causing the implementation of the writ of possession issued by the Regional Trial Court, Branch VII, La Trinidad, Benguet.
>
> SO ORDERED."

Petitioner PNB appealed the said decision to the DARAB. However, the DARAB affirmed the assailed decision on June 14, 2005. Hence, this petition with the following issues to be resolved:

> I.
> WHETHER OR NOT RESPONDENTS HAD ENGAGED IN FORUM SHOPPING;
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> II.
> WHETHER OR NOT THERE IS AN AGRICULTURAL DISPUTE SO AS TO VEST THE DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD WITH JURISDICTION OVER THE CASE;
>
> III.
> WHETHER OR NOT RESPONDENTS ARE TENANTS OF THE PROPERTY IN QUESTION.

The petition lacks merit.

Petitioner PNB argues that private respondents engaged in forum shopping which warrants the annulment of the assailed decision. Private respondents sought to be placed in possession over the subject land after they failed to do so before the lower court in Civil Case No. 2K-CV-1509 by filing DARAB Case No. 0077-2000-B-CAR and DARAB Case No. 0007-03-B-CAR for the same cause of action.

This argument is untenable.

Forum shopping exists where a litigant sues the same party against whom another action or actions for the alleged violation of the same right and the enforcement of the same relief is/are still pending, the defense of litis pendencia in one case is a bar to the others; and, a final judgment in one would constitute res judicata and thus would cause the dismissal of the rest.[23]

Thus, there is forum shopping when there exist: a) identity of parties, or at least such parties represent the same interests in both actions; b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; c) the identity of the two preceding particulars is such that any judgment rendered in the pending case, regardless of which party is successful would amount to res judicata in the other.[24]

In this case, it cannot be said that the rule on forum shopping was disregarded.

In Civil Case No. 2K-CV-1509 filed with the Regional Trial Court of La Trinidad, Benguet, the action is for the Annulment of Mortgage, Sheriffs Certificate of Sale with Injunction, whereas DARAB Case No. 0077-2000 B-CAR is for the Annulment of Sale and/or Redemption with Injunction.

DARAB Case No. 0007-03-B-CAR, on the other hand, is for the Maintenance of Peaceful Possession with Injunction.

Careful analysis of these cases would show that the private respondents filed the civil case for the annulment of the real estate mortgage and certificate of sale in their capacity as legal heirs of Saleng Paredes (a.k.a. Saling Paredes, Saling Felipe or Saleng Silvada). DARAB Case No. 0077-2000 B-CAR, on the other hand, is for the annulment of the certificate of sale and/or redemption of the foreclosed property and was filed in their capacity as heirs and to exercise their rights as agricultural tenants of the subject land. Whereas DARAB Case No. 0077-2000 B-CAR was filed by private respondents in their capacity as farmer beneficiaries for the purpose of protecting their rights to the possession and occupation of the subject land by virtue of its being placed under the comprehensive agrarian reform program of the government.

Petitioner PNB further argues that the subject land is not covered by the Comprehensive Agrarian Reform Law because it is a residential lot and that there is no agricultural dispute between the parties so as to give DARAB jurisdiction over the case.

This Court is not persuaded.

As cited by petitioner PNB itself, the case of Roxas & Co., Inc. vs. Court of Appeals[*], is fittingly applicable wherein it was held that " the character of a parcel of land is not determined merely by a process of elimination-the actual use which the land is capable of should be the primordial factor."

In this case, it is undeniable that the subject land was devoted or used as an agricultural land. This can be shown by petitioner PNB's Declaration of Real Property[25], the Claim Folder Profile and Valuation Form[26], as well as the photos[27] of the subject land, which clearly show that the same is an agricultural land.

The certification issued by the Office of the Municipal Planning and Development Coordinator classifying the

subject land into residential land is of no moment considering that the actual use of the land is the primordial factor in land reform cases.

The case also falls within the jurisdiction of the DARAB since it is the administrative body that is vested with the power to hear agrarian disputes.

Agrarian dispute is defined in the case of Isidro vs. Court of Appeals[28], wherein it was held that:

> "An agrarian dispute refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers associations or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements. It includes any controversy relating to compensation of lands acquired under Republic Act No. 6657 and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee." (italics supplied)

It is indisputable that the subject land was acquired by the government thru the Provincial Agrarian Reform Officer of the DAR for compulsory acquisition, the same to be distributed to farmworker/beneficiaries. Clearly, the controversy in this case falls squarely within the jurisdiction of the DARAB.

Petitioner PNB further argues that the DARAB cannot grant to private respondents the right to remain as tenants/cultivators of the land in the interregnum pending the determination of DARAB Case No. 0077-00-B-CAR.

This argument is untenable.

The government, thru the Department of Agrarian Reform, can legally acquire the subject land by virtue of Section16 , R.A. No. 6657. Petitioner PNB should have at least questioned the acquisition or filed an exemption of the subject land from coverage thereof, but it did not do so. Surely, the Department of Agrarian Reform has determined who are the qualified farmer/beneficiaries to be benefited by such acquisition.

Private respondents, as farmer/beneficiaries of the comprehensive agrarian reform program of the government, has every right to be protected to the peaceful possession of the subject land.

As aptly held by the DARAB in its resolution[29] dated March 5, 2004:

> "While this forum found a patent error in the dispositive portion of the questioned decision since it did not obviously and directly address the prayer sought by the petitioners in their petition, this Board found no cogent and plausible reason on why their prayer should not be granted. The reason is pure and simple. First, the subject landholding is without an iota of doubt, placed within the coverage of the Comprehensive Agrarian Reform Law (R.A. 6657) under the so-called compulsory acquisition scheme. There was already a NOTICE OF VALUATION albeit its rejection by the respondent bank which triggered the culmination of DARAB Case No. 0005-02-CAR on September 12, 2002 but such fact did not in any way remove the status of the subject landholding from the ambit of compulsory acquisition pursuant to R.A. 6657. Second, the petitioners were already identified as the beneficiaries of the subject landholding. Such being the case, they are under the protective mantle of the aforecited law (R.A. 6657) xxx."
>
> "In the fulfillment of their obligations, petitioners should therefore be maintained in peaceful possession and cultivation of the premises. In so doing, the writ of possession issued by the Regional Trial Court should not be implemented so that as an identified agrarian reform beneficiaries, petitioners will be able to possess that willingness, aptitude and ability to cultivate and make the land productive. xxx".

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WHEREFORE, in view of the foregoing, the decision dated June 14, 2005 of the Department of Agrarian Reform Adjudication Board in DARAB Case No. 12860 (Reg. Case No. 0007-03-B-CAR) is hereby AFFIRMED.

SO ORDERED.

Tijam and Castillo, JJ., concur.

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[1] Rollo p.2

[2] ibid.

[3] Rollo p. 179

[4] Rollo p. 54

[5] Rollo p. 58

[6] Rollo p. 62

[7] Rollo p. 181

[8] Rollo p. 67

[9] Rollo p. 67

[10] Rollo p. 181

[11] Rollo p. 77

[12] Rollo pp. 85-88

[13] ibid.

[14] Rollo p. 89

[15] Rollo p. 185

[16] Rollo p. 199

[17] Rollo p. 41

[18] Rollo p. 44

[19] Rollo p. 208

[20] Rollo p. 214

[21] Rollo p. 217

[22] Rollo p. 218

[23] Barnes vs. Padilla, 439 SCRA 675

[24] Hongkong and Shanghai Banking Corporation Limited vs. Catalan, 440 SCRA 498

[*] 321 SCRA 106

[25] Rollo p. 81

[26] Rollo p. 189

[27] Rollo pp. 210-211

[28] 228 SCRA 503

[29] Rollo p. 228

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