

CESAR DE GUZMAN, PETITIONER, VS. HON. PASTOR L. DE GUZMAN, ET AL., RESPONDENTS.*G. R .No. 18585. June 29, 1962*

Ponente: REGALA, J.

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This is a petition for certiorari with preliminary injunction, seeking to annul the order and decision of the Court of Agrarian Relations, Third Regional. District, San Fernando, Pampanga, in CAR Cases Nos. 865-P and 913-P.

It appears that the two cases above referred to are interrelated because they concern the same parties and involve the same piece of land. In CAR Case No. 865-P, Jose Miranda was petitioner and Cesar de Guzman the respondent; In CAR Case No. 913—P, Cesar de Guzman was petitioner and Jose Miranda was the respondent.

When the two cases were called for joint hearing on April 6, 1961, there was appearance only for Miranda, and upon verbal motion of his counsel, the Court of Agrarian Relations, on even date, issued an order dismissing Case 913-P for lack of interest on the part of petitioner therein to prosecute the same, and allowing petitioner Miranda in Case 865-P to present his evidence, *ex parte*.

In his testimony, Miranda declared that de Guzman has been his tenant over a parcel of agricultural rice land situated in the barrio of Balete, Arayat, Pampanga, pursuant to a contract of lease entered into between them, whereby de Guzman would occupy 29,000 square meters of the land and to pay as rental thereof 42-1/2 cavans of palay a year; that in 1959 de Guzman did not fully pay his obligation because there was an unpaid balance of 13 1/2 cavans; that Miranda tried to collect said balance but de Guzman neglected and refused to pay; and that his petition with the Court of Agrarian Relations was to enforce the provision of section 50, sub-section (c) of Republic Act 1199.

After hearing, the Agrarian Court, on the same date, April 6, 1961, rendered a decision giving Miranda the authority to eject de Guzman from the landholding in question and to appoint another tenant to work the land. On April 21, 1961, counsel for de Guzman moved for reconsideration of this decision and also the order of the court, both dated April 6, 1961. On May 20, 1961, the motion was denied. Hence, the present petition alleging abuse of discretion on the part of respondent Judge in issuing the said order and decision.

As prayed for, a writ of preliminary injunction was issued by this Court on August 5, 1961, restraining respondents from enforcing the order and decision complained of.

On August 14, 1961, counsel for Miranda filed a motion for reconsideration of the last mentioned order of August 5, 1961, requesting for the recall of the writ of preliminary injunction on the ground that the orders supposed to be restrained had been executed. This motion for reconsideration was denied.

Meanwhile, on August 21, 1961, de Guzman filed here, before the Supreme Court, a petition for contempt against Jose Miranda, alleging that on the 16th of that same month, the latter willfully and intentionally disobeyed the resolution of this Court dated August 5, 1961, restraining the execution of the order and decision complained of,

by forcibly taking possession of his landholding.

In his answer to the petition for contempt, Miranda denied having disobeyed the aforesaid order, the truth of the matter, as alleged by him, being that as early as August 2, 1961, the writ of execution in CAR Case 865-P had been implemented and that de Guzman was taken out of possession from the landholding in question. Since the execution of the judgment in said agrarian case, there has been no order revoking or nullifying the writ of execution.

Action on the contempt case has been deferred by resolution of this Court dated September 18, 1961, until this case is considered on the merits.

We have gathered from the record the following uncontroverted facts: that the April 6, 1961 hearing in question was not an initial hearing but a continuation of a series of scheduled hearings on the agrarian cases above-mentioned; that counsel for de Guzman received notice or summons for said hearing on April 6, 1961 only in the afternoon of the previous day, therefore, it was impossible for him to notify his client de Guzman because the latter resides in a remote barrio of Arayat, Pampanga; and that said counsel had another trial in San Pablo City also on April 6, 1961.

The dismissal of Case 913-P for lack of interest on the part of petitioner de Guzman, and declaring him in default in Case 865-P, clearly deprived him of his day in court thru no fault or negligence on his part. This Court is not unmindful of the fact that the matter of adjournments and postponements of trials is within the sound discretion of the court. But there is, however, a fundamental principle at stake in this case. It is the belief that a man who has filed a case in court should be given a reasonable opportunity to prepare for trial and to obtain due process of law and proper protection under the law. (*Cing Hong So vs. Tan Boon Kong, et al.*, 53 Phil., 437.)

We have already held in several cases that "when a party, without malice, fault, or inexcusable negligence, is not really prepared for trial, the court would be abusing its discretion if a reasonable opportunity is denied him for preparing therefor and for obtaining due process of law." (*Cing Hong So vs. Tan Boon Kong, et al.*, *supra*, citing *Lino Luna vs. Arcenas*, 34 Phil., 80; *Valerio vs. Secretary of Agriculture and Natural Resources, et al.* [107 Phil., 512; 55 Off. Gaz (52) 6372.]

It has been proven that the petitioner de Guzman's counsel received the notice of hearing at 3 p.m. of the day preceding the day of hearing. And as already stated, a motion for postponement to be filed by the counsel for petitioner would not reach the court a quo nor the adverse party in time. It is only proper to give said petitioner a day in court to present his defense, for the case involves no less than his means of livelihood.

Furthermore, in the complaint which he filed (Case 913-P), de Guzman maintained that the amount of 42 1/2 cavans which he was paying to respondent Miranda was in excess of the amount fixed in paragraph (a) of Section 46 of Republic Act No. 1199, known as the Agricultural Tenancy Act, as the land in question is only a second class agricultural land. The plaintiff should then be given an opportunity to present evidence to show that the land in question is, in fact, a second class agricultural land.

It should be noted that when these cases were first called for hearing on March 16, 1961, Miranda did not appear, and they were postponed to March 28, 1961, and later again set for hearing on April 6, 1961. It is difficult to see why de Guzman should be presumed to lack interest in his case against Miranda by his mere failure to appear in court on April 6, 1961.

Coming now to the question of contempt, it seems that the petitioner has not put up a convincing case, because from an examination of the record, the orders of the lower court dated April 6, 1961 had really been executed before respondents received the writ of preliminary injunction restraining them from said execution. At any rate,

we are now making the said writ permanent and the result would be to disallow Miranda from possession of the premises.

Wherefore, the petition for certiorari is hereby granted and the writ of preliminary injunction heretofore issued is made permanent. The order and decision of the Court of Agrarian Relations complained of are hereby annulled and this case is remanded to said court for further proceedings. Costs against respondents.

Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

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