

SILVESTRE MASA, PETITIONER, VS. HON. JUAN A. BAES, JUDGE OF THE COURT OF AGRARIAN RELATIONS, 7TH REGIONAL DISTRICT, BRANCH I, LOS BAÑOS, LAGUNA, THE PROVINCIAL SHERIFF OR HIS DE...

G.R. No. L-29784. May 21, 1969

Ponente: REYES, J.B.L., Acting C.J.

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REYES, J.B.L., Acting C.J.:

Petition for certiorari to set aside two orders of the Court of Agrarian Relations (7th Regional District) dated 11 June and 5 November 1968, issued in Cases Nos. 923, 926 and 959 of said court, setting aside a supplemental decision, rendered on 4 March 1968, and denying reconsideration.

Against a decision rendered in 1963 by Judge Pastor de Guzman in cases Nos. 923, 926 and 959 of the Court of Agrarian Relations (Sta. Cruz, Laguna, Branch), dismissing the first two for lack of sufficient evidence, and, in Case No. 959, authorizing the landholder, Jose Tan Kapoe, to eject the tenant, Silvestre Masa, and ordering that the standing crop be divided 50-50 (copy of which decision was received by his counsel on 6 May 1963), the tenant aforesaid filed a motion to reconsider, dated 8 May 1963, sending copy thereof to counsel for the landlord by registered mail. For lack of proof of service of the motion, Judge Artemio Macalino, then presiding over the court, on 20 November 1963, directed the clerk of court to furnish counsel for the landlord, Tan Kapoe, a copy of the tenant's motion to reconsider. After lapse of 10 days for filing an opposition, on 20 February 1964, Judge Macalino issued a resolution reconsidering and setting aside the decision of Judge de Guzman, and rendered another denying the landholder's petition for the ejectment of tenant, Silvestre Masa; ordering the landholder to maintain Masa in peaceful possession and cultivation of the land-holding; and declaring a leasehold system of tenancy between both parties.

Landholder Tan Kapoe, through counsel, petitioned for reconsideration of judge Macalino's resolution of 20 February 1964, which Masa opposed; and on 9 May 1964, reconsideration was denied by the court (Petition, Annex B).

On 20 May 1964, Tan Kapoe's counsel filed a notice of appeal; but thereafter, no steps were taken to prosecute the same; hence the appeal lapsed.

Three and a half years later, on 23 January 1968, counsel for the tenant, Masa, prayed for a supplemental decision to specify the rentals that had to be paid to the landholder and for a return of the deposits made during the pendency of the case; and on 4 March 1968 the court rendered the supplemental decision prayed for. Upon receipt thereof on 12 March, counsel for the landholder, Tan Kapoe, filed on 2 April 1968 a motion for reconsideration, not only of the supplemental decision of 4 March but also of the resolution of Judge Macalino Issued as far back as 20 February 1964. The landholder further prayed that the original decision of 23 April 1963 of judge de Guzman be executed on the ground that the reversing resolution of Judge Macalino was null and void, as it had been rendered long after the De Guzman decision, decreeing the tenant's ouster, had become final and

executory.

Despite opposition by the tenant, the court, on 11 June 1968, granted the landholder's motion, on the ground that the tenant's petition for reconsideration of 8 May 1963 had not arrested the course of the period for the finality of the de Guzman decision, as the tenant's motion violated section 1 of Rule 17 of the Rules of the Court of Agrarian Relations, requiring that motions for reconsideration be accompanied by proof of service of one copy thereof upon the adverse party. Subsequently, the court ordered the execution of the De Guzman decision of 1963. Unable to move the court from its last resolutions, the tenant resorted to this Court, which gave his petition due course.

We find the petition meritorious.

In the first place, the assumption of the court below (Judge Juan A. Baez presiding), that the landholder, Tan Kapoe, or his counsel had not been served copy of the tenant's motion to reconsider judge De Guzman's decision, is belied by the record. In his motion of 8 July 1968, asking for reconsideration of the Court of Agrarian Relations' resolution of 11 June 1968 revoking the decision of Judge Macalino and restoring that of Judge de Guzman (Petition, Annex G), the tenant, through his counsel, Atty. Gonzalo Padua, attached photostat copies of "registry receipt No. 42983 dated 9 May 1963, and registry return card showing that the registered matter was received by Atty. P.B. Timog[1] on the 10th day of May, 1963, marked annexes "A" and "B" respectively", and charged that "landholder Tan Kapoe concealed and hid the fact that he received a copy of tenant Silvestre Masa's motion dated 8 May 1963". Nowhere in the record before us is this charge traversed or denied. The mere fact that this evidence of service was not attached to the original of the tenant's motion of 8 May 1963 is of no moment, for it is a fact that postal registry return cards are not delivered to the sender until an appreciable (sometimes a considerable) lapse of time after the mailing.

Secondly, we hold that the landholder, herein private respondent Tan Kapoe, is in estoppel to deny his receipt of the copy of petitioner Masa's motion of 8 May 1963 by (a) his failure to call judge Macalino's attention to that fact; (b) his receipt without protest of the copy of the motion sent to him by the clerk of court, by order of Judge Macalino; (c) his failure to set up this particular claim after receipt of the 20 February 1964 resolution reconsidering and revoking the 1963 decision of Judge Pastor de Guzman, for the resolution of Judge Macalino (under date of 9 May 1964) enumerates the grounds for reconsideration then posed by Tan Kapoe (Petition, Annex B), and it positively appears therein that the said landholder never claimed non-receipt of the tenant's motion to reconsider and set aside Judge De Guzman's original decision, nor did he urge that the latter decision had become final and executory; (d) Tan Kapoe's failure to perfect his appeal from the revocatory resolution of Judge Macalino; and (e) his silence and inaction, from 1964 to 1968, of almost four years, during which he refrained from raising the issue that he (Tan Kapoe) invoked before Judge Baes, who had apparently acted as his counsel in a case before elevation to the bench (See Opposition to Motion for Inhibition, Annex C of petitioner's Urgent Motion dated 21 April 1969).

In the third place, in relying on the technical point that no proof of service had been attached to the original of Masa's motion to reconsider the decision of Judge de Guzman, and ignoring the evidence that copy of the motion had in fact been received, the respondent Judge openly ignored section 155 of the Land Reform Act, Republic Act No. 3844, providing that in the hearing, investigation and determination of any question or controversy the Court of Agrarian Relations shall not be bound strictly by the technical rules of evidence and procedure, except in expropriation cases. Respondent Judge's reliance on our ruling in *Esquivel-Cabatit vs. Court of Agrarian Relations*, L-19756, 25 May 1964, is not warranted, for that case arose prior to the Land Reform Act, although decided after said law came into effect. In the *Cabatit* case, furthermore, we held that the motion for reconsideration did not arrest the finality of the decision sought to be set aside because the certification at the

foot of the motion showed that copy had been sent to one Atty. Amado Evangelista when the adverse party's attorney of record was Rodrigo V. Fontelera; so that it became indisputable that the motion had not been served upon the adverse party. In the case at bar, contrarywise, the certification was that a copy of Masa's motion to reconsider Judge de Guzman's decision had been sent to Tan Kapoe's counsel of record, Atty. Timog. And, as previously observed, the said Tan Kapoe is not now in a position to deny receipt of the copy of Masa's motion. The only conclusion derivable from the record is that Judge Macalino acted within his powers in reconsidering and reversing Judge De Guzman's 1963 decision; and because no action was taken to appeal Judge Macalino's own decision, the same became final, and is the law of the case. Hence, Judge Bees acted in abuse of discretion in setting aside Judge Macalino's 1964 decision (that had superseded that of Judge de Guzman) and in reviving the latter.

IN VIEW OF THE FOREGOING, We declare that the operative decision is that of 20 February 1964 rendered by Judge Artemio Macalino and the supplemental decision of 4 March 1968. Hence, the orders of Judge Baes now under review are annulled and set aside, and the case is ordered remanded to the court of origin, with instructions to set aside the execution of the 1963 decision of Judge de Guzman; to restore possession to the petitioner, Silvestre Masa; to adjudge said tenant entitled to recover his share of the products conformably to Judge Macalino's decision; and to take such further steps as may be required, conformably to this decision. Costs in all instances against private respondent Jose Tan Kapoe.

Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and Capistrano, JJ., concur.

Teehankee and Barredo, JJ., did not take part.

Concepcion, C.J., and Ruiz Castro, JJ., on official leave.

[1] Counsel for Tan Kapoe.

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