

MARIANO GARCHITORENA, PETITIONER, VS. HON. TOMAS P. PANGANIBAN, ETC., ET AL., RESPONDENTS.*G. R. No. L-17784. October 30, 1962*

Ponente: CONCEPCION, J.

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Appeal from a decision of the Court of Agrarian Relations denying the request of petitioner Mariano Garchitorena for authority to transfer the thirty-four (34) respondents herein excluding Hon. Tomas P. Panganiban. Judge of said Court—to other lots suitable for agriculture, or, in the alternative, to order the ejectment of said respondents, and directing said petitioner to maintain them in the peaceful possession and cultivation of the lands involved in this case.

Petitioner is the owner and landholder of a farm land of about 138 hectares located in the barrio of Habago, Municipality of Ocampo, Province of Camarines Sur. Different portions of this land, with an aggregate area of over 77 hectares, are held by said thirty-four (34) respondents, as tenants or lessees of the petitioner. On May 9, 1956, the latter commenced this proceedings in the Court of Agrarian Relations, Sixth Regional District, Naga, with a petition for permission to effect the transfer aforementioned, or, else, to eject the aforementioned respondents, because petitioner wishes to convert said portion of about 77 hectares from palay land to pasture land, and because said respondents had not paid the rentals respectively due from them, aside from having failed to follow proven farm practices.

Upon being summoned, said respondents filed a motion to dismiss, which was denied on September 22, 1956. Despite notice of the order to this effect, they did not answer the petition. Hence, on November 20, 1956, said respondents were declared in default. Over seven months later, or on June 27, 1957, two (2) of said respondents moved for the lifting of the order of default. Subsequently, eleven (11) other respondents filed a similar motion, which, like the first, was granted. After the submission of respondents' answer and subsequent appropriate proceedings, the court rendered a decision annulling the orders lifting the declaration of default, finding that the tracts of land involved in this case had not been proven to be within the perimeter recommended by the Bureau of Soil Conservation for conversion into grazing land, that non-payment of the rentals due to petitioner was not deliberate on the part of said respondents, apart from the circumstance that the amount of rental charged by petitioner might be excessive, and, hence, illegal, and that the alleged failure of respondents to observe proven farm practices had not been established. Consequently, judgment was rendered against the petitioner, who now seeks its review by certiorari.

The first question for determination in this appeal is whether the land occupied by said respondents forms part of the area found by the Bureau of Soil Conservation to be suitable for pasture. His Honor, the trial Judge, resolved this question in the negative, but the records show otherwise.

The land in dispute is described in paragraph II of the petition as follows:

"North:

Before Maximo Palma, now Teofilo Yamson;

"East:

Before Aguedo Silot, now Agapito Monje, May Iba Creek and Mariano Garchitorena;

"South:

National Highway; and

"West:

Ibaga River and Paunlonu River.

"Area:

77.2877 hectares more or less."

Referring thereto, Atty. C. Fabricante testified:

"Atty. Contreras:

Do you know this plan. Please see this plan which we request to be marked as Exh. A.

Court:

Mark it.

A.

I know that plan.

Atty. Contreras:

Whose property is this?

A.

This is Mr. Garchitorena's property.

Q.

Will you indicate the land in question?

A.

This part here, in the North in Simporoso Lanuzga, then on the Western part, Maxima Indolico, then the so called May Iba Creek. Bounded by that May Ina Creek is the same property of Mr. Mariano Garchitorena.

Q.

What are these broken lines here?

A.

The broken lines indicated by 'X' is a barb wire. On the South is the National Highway from Tigaon to Naga City and on the West is the Hibago River, Paunlong River.

Court:

What is the superficial area of this whole tract of land?

A.

This whole area in this whole plan is 138 hectares more or less, but the land in question is more or less seventy seven hectares."

This testimony is corroborated by the plan Exhibit A. It appears, moreover, from the soil conservation report, Exhibit C, when considered in relation to said plan (Exhibit A) and the aforementioned testimony of Atty. Fabricante, that the land involved in this case is "characterized by the presence of stony sections * * * and rock outcrops or boulders and gully formations" and that its "soil fertility has become actually low * * * because of the loss of the topsoil due to soil erosion". Indeed, the lower court took on its face value the testimony of Atty. Fabricante to the effect that said land can hardly yield three (3) to five (5) cavanes of palay per hectare, thus corroborating the conclusion, reached in the aforementioned soil conservation report, to the effect that the land should be "utilized for pasture and not for crops".

We are satisfied, therefore, that the land in question is appropriate for grazing purposes, not for agriculture.

In support of its finding that the failure of respondents to pay the stipulated rentals for many years was not deliberate, the lower court cited the aforementioned low fertility of said property. It even intimated that the rentals charged by petitioner may, as a consequence, be considered excessive, and, therefore, illegal. We do not believe that these premises warrant the conclusion drawn therefrom by the lower court.

If the non-payment of rentals were due to a poor harvest owing to an extraordinary event or an unusual act of God, the refusal of His Honor, respondent Judge, to order the ejectment of the other respondents upon the ground that their omission was not deliberate would be justified. However, when said omission takes place for several years and the land normally has a poor yield, by reason of the condition of its soil, as it is in the case at bar, said refusal has the effect of authorizing the respondents to hold the land for life, or, at least, indefinitely, without giving the owner or landowner any share in its produce, thus virtually depriving him of one of the main attributes of ownership, which is the enjoyment of the possession and use of the thing owned, as well as of the products thereof.

Our Constitution and tenancy laws do not countenance such result. To begin with, the same amounts to a taking of private property for private use and without compensation. Secondly, the principle of social justice cannot and should not be so construed as to violate the elementary principles of justice and bring about a patent injustice. Thirdly, if the land in dispute is as poor for agricultural purposes as it is, the continuance thereon of respondents herein would tend to perpetuate their precarious condition, instead of promoting their well being and economic security, which is the immediate objective of social justice. It is to the best interest, therefore, of said respondents that they be transferred to lands that may offer them and their families a better future.

As regards the statement in the decision appealed from to the effect that, if the productivity of the property in dispute is as poor as above pointed out, then the rental charged by petitioner may even be considered as excessive and hence, illegal, suffice it to say that these premises do not justify non-payment of any rental whatsoever, not even of the amount that is reasonable and legal.

In view of the foregoing, it is not necessary to consider the question whether or not respondents herein had adhered to proven farm practices. The judgment appealed is reversed and another shall be entered, authorizing petitioner herein to convert the land in dispute into a pasture land. Let the record of this case be remanded to the lower court for determination of the feasibility of transferring respondents herein to other portion of petitioner's land which are suitable for agricultural purposes, and the adoption of such measures as may be appropriate to carry out the corresponding transfer or transfers, if and when indicated. No costs. It is so ordered,.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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