

**LAO OH KIM, PETITIONER, VS. HON. PASTOR P. REYES, JUDGE, CAR,
3RD REGIONAL DISTRICT, DOMINGO GARCELIAN AND JOSE
BUTARDO, RESPONDENTS.**

G.R. No. L-11391. May 14, 1958

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

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REYES, J.B.L., J.:

Appeal by certiorari taken by petitioner Lao Oh Kim to review the decision of the Court of Agrarian Relations, Third Regional District, in its Case No. 785-T.

Respondents Domingo Garcelian and Jose Butardo are tenants in the landholding of petitioner Lao Oh Kim in Anao, Tarlac. On July 11, 1955, respondent Garcelian was convicted by the Justice of the Peace Court of Anao of the crime of light threat for having threatened to harm or kill with a bolo Galanico Oasin, petitioner's farm manager, and sentenced to pay a fine and costs; while on August 8, 1955, respondent Jose Butardo was convicted, also by the same court, of the crime of malicious mischief for having caused damage to petitioner's estate by deliberately opening the earthen dike of its water deposit without any need for it, being sentenced to a fine and three days' imprisonment.

On the basis of the above convictions, petitioner Lao Oh Kim, through his farm manager Galanico Oasin, filed Case No. 765-T in the Court of Agrarian Relations for the ejectment of respondents Garcelian and Butardo. The Agrarian Court, however, dismissed the petition on the ground that with respect to respondent Garcelian, his conviction for the crime of light threat against petitioner's farm manager is not within the purview of par. (g), sec. 50, Rep. Act 1199, specifying as a ground for ejectment the tenant's conviction of a crime "against the landholder or a member of his immediate family"; while with respect to respondent Butardo, his conviction for malicious mischief does not come under sec. 50, par. (f), of the same Act, making the tenant liable to ejectment when he "through negligence permits serious injury to the I land which will impair its productive capacity", there being no showing of the nature and extent of the damage caused and considering that the penalty imposed was only three days of imprisonment. Unable to obtain reconsideration of the order of dismissal of his petition for ejectment, petitioner Lao Oh Kim appealed to this Court.

We find no error in the lower court's holding that no sufficient ground exists for the ejectment of respondent Domingo Garcelian.

Sec. 50, par. (g), of Rep. Act 1199 provides:

"Any of the following shall be a sufficient cause for the dispossession of a tenant from his holdings:

* * *

(g) Conviction by a competent court of a tenant or any member of his immediate family or farm household of a crime against the landholder or a member of his immediate family." (Emphasis supplied)

As correctly held by the Court a quo, respondent Garcelian's conviction of the crime of light threat against petitioner's farm manager does not fall within the purview of the above provision, it not appearing that his farm manager is a member of petitioner's "immediate family".

Petitioner insists that the term "immediate family" of the landlord should be interpreted to mean his "farm family", which includes his farm manager and other persons "who usually help his operate the farm enterprise", in the same way that under the same par. (g) of sec. 50, supra, the crime constituting a ground for the tenant's ejectment may not only be committed by him or any member of his immediate family, but by any member of his "farm household" as well. The argument is without merit, for if the law had intended that crimes committed against members of the landlord's farm household are justifiable grounds for ejectment, it would have so provided, in the same way that it provided that a crime committed by a member of the tenant's farm household is a ground for the tenant's ejectment. Expressio unius est exclusio alterius. In fact, the intention to exclude crimes committed against the landlord's representative, such as his farm manager, as grounds for the tenant's ejectment, appears even more clear if we refer to sec. 19 of the old Tenancy Act (Act 4054) which includes as cause for dismissing the tenant "commission of a crime against the person of the landlord or his representative." The elimination of crimes against the landlord's representative from the enumeration of the grounds for the ejectment of the tenant under the new Tenancy Act, Rep. Act 1199, is clear proof that such crimes, while sufficient ground for ejectment under the old law, are no longer available for the dismissal of the tenant under the new law.

Petitioner also argues that the grounds specified under sec. 50 of Rep. Act 1199 are not exclusive of other valid causes for the tenant's ejectment, and that the crime committed by respondent Garcelian against petitioner's farm manager is "gross misconduct" that, under sec. 19, par. 2, subsec. (1) of Act 4054, is reasonable cause for his dismissal. As already stated, however, Act 4054 has been totally repealed by Rep. Act 1199; and what is more, sec. 49 of the latter law provides that "the tenant shall not be dispossessed of his holdings except for any of the causes" enumerated in the following section 50, hence the causes enumerated therein are exclusive of all other grounds. Indeed, the purpose of the new law in limiting the grounds for the tenant's dispossession is to give a tenant security of tenure and prevent abuse on the part of the landlord in the dismissal of his tenants; and to read into the provisions of the new law grounds for ejectment not specified therein would defeat this purpose. Furthermore, it would violate the legislative policy, declared in sec. 56 of the Act, that in the interpretation of its provisions, the courts "shall solve all grave doubts in favor of the tenant".

Petitioner would have us apply certain cases wherein we allegedly held that the statutory causes for dispossession of a tenant are not exclusive of other valid grounds for ejectment. Suffice it to say that said cases were decided before the passage of Republic Act 1199 and consequently can not be applied in the instant case.

Coming now to the case for ejectment against respondent Jose Butardo, we believe that the respondent Court should have sustained petitioner's petition to eject this respondent.

In holding that Butardo's conviction for malicious mischief for having deliberately opened the earthen dikes of petitioner's land without any need thereof does not justify his ejectment, the lower court applied sec. 50 (f) of Rep. Act 1199 providing the tenant liable for ejectment when he "thru negligence permits serious injury to the land which will impair its productive capacity", and held that as there was no showing that Butardo's mischief caused serious injury to petitioner's land that impaired its productive capacity, his conviction could not be invoked for his ejectment.

We agree with petitioner that the provision applied by the court below refers only to acts of negligence of the tenant, and has no application to malicious, willful acts of mischief. As negligent acts are not deliberate or intentional, they constitute no ground for ejectment unless they appear to be gross, that is, unless serious injury is

caused to the landholding that impairs its productive capacity. Where, however, the tenant is guilty of deliberate, malicious acts of mischief against the land under his cultivation and possession, the extent of the damage caused by his acts is immaterial, he becomes unfit to continue in his landholding, and he may be dispossessed under another paragraph of sec. 50 of Rep. Act 1199, namely, par. (b) thereof providing as sufficient cause for ejectment "when the tenant violates or fails to comply with * * * any of the provisions of this Act". Sec. 23, par. (1) of the Act enjoins the tenant "to cultivate and take care of the farm, the growing crops and other improvements entrusted to him as a good father of a family, by doing all the work necessary in accordance with proven farming practices"; while under sec. 33, par. 3 thereof, the tenant's duties include "the maintenance, repair and weeding of dikes, paddies, and irrigation canals in his holdings". As the dikes of the land entrusted to him are among the improvements therein that he must care for with the diligence of a good father of a family, and which he is bound to maintain and repair at all times, respondent Butardo's acts of maliciously destroying the earthen dikes of petitioner's land, however small the damage caused, unquestionably constitute valid and sufficient ground for his ejectment.

WHEREFORE, the decision appealed from is affirmed in so far as it dismissed the petition for ejectment against respondent Domingo Garcelian; but reversed in so far as it dismissed the petition against respondent Jose Butardo, who is hereby ordered ejected from petitioner's estate in Anao, Tarlac. Costs against petitioner Lao Oh Kim and respondent Jose Butardo. So Ordered.

Paras, C.J. Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Endencia, and Felix, JJ., concur

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