

HEIRS OF JUAN CUANO, RE-PRESENTED BY FRANCISCA CUANO AGUILAR, PRECILA CUANO PANOTES AND RAFAEL OBUSAN, PETITIONERS, VS. HON. COURT OF APPEALS AND PEDRO IBANA, RESPONDENTS.

G.R. No. L-46073. August 13, 1986

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals in CA-G.R. No. 06370-R entitled "Pedro Ibana v. Heirs of Juan Cuano, represented by Francisca Cuano Aguilar, et al. " which affirmed in toto the decision of the Court of Agrarian Relations in CAR Case No. 352-CN '71 for Illegal Ejectment, Reinstatement and Damages, rendered in favor of private respondent. (Rollo, p. 2).

Petitioners are the exclusive owners and possessors of a parcel of land, partly coconut land and partly riceland, containing an area of four (4) hectares more or less, situated in Barrio Binanwaan, Talisay, Camarines Norte while private respondent since 1933 tenanted said property. (Rollo, p. 3).

It was established in the Court of Agrarian Relations, that private respondent (plaintiff therein) as the duly instituted tenant of the land in question, continuously possessed and cultivated the same and shared the produce therefrom with the landowner on a 50 / 50 sharing basis. Sometime in February 1964 private respondent without the knowledge and consent of the landowner went to Jomalig, Polilio, Quezon to visit a sick daughter, stayed there for two weeks and then returned to his landholding where he left a standing palay crop which was then taken care of by his son Artemio Ibana. Thereafter he continued to regularly cultivate the landholding up to the "tambay" cropping of 1966 (from November 1966 to April 1967; Rollo, p. 60), when he opted to elect the leasehold system, with the intervention of Atty. Arao of the Office of the Agrarian Counsel, but petitioners-landowners refused to abide thereby. Instead they (petitioners) filed Civil Case No. 56 before the Municipal Court, a forcible entry case where a writ of preliminary mandatory injunction was issued enjoining private respondent from further dispossessing petitioners. Because the former failed to heed said writ he was cited for contempt of court and sentenced to pay a fine of P 50.00 for the violation thereof, after which he relinquished the possession and cultivation thereof to the landowners. (Decision of the Court of Appeals, Rollo, p. 49).

While the civil case was pending in court, respondent filed on March 3, 1967 with the Court of Agrarian Relations of Daet, Camarines Norte, CAR CASE No. 288-CN 8 '67 for Illegal Ejectment Reinstatement, and Damages. On motion of petitioners, (defendants therein), the Court of Agrarian Relations dismissed the case without prejudice, in its Order of April 25, 1967 on the ground of multiplicity of suits and pendency of action between the same parties and for the same cause. (ORDER - CAR Case No. 288-67; Rollo, pp. 76-83).

Meanwhile, the municipal court in Civil Case No. 56 rendered a decision making the writ of preliminary injunction permanent. (Decision, CA-G.R. No. 06370-CAR, Rollo, p. 50).

Said decision of the Municipal Court was appealed to the Court of First Instance in Civil Case No. 1866 and the latter court found that the case was beyond its jurisdiction because it falls within the jurisdiction of the Court of Agrarian Relations. Said decision being already final, the decision of the Municipal Court was in effect adjudged to be a nullity. (Ibid, Rollo, pp. 54-55).

On July 20, 1971, Pedro Ibana filed with the Court of Agrarian Relations, Branch II, Daet, Camarines Sur, CAR Case No. 352-CN '71, for Illegal Ejectment, Reinstatement and Damages, in effect a revival of CAR Case No. 288-CN 8'67. (Rollo, pp. 5-6).

The judgment of the agrarian court in favor of the plaintiff Pedro Ibana (respondent herein), reads as follows:

"WHEREFORE, judgment is hereby rendered:

"1. Declaring the plaintiff as the de jure tenant, now agricultural lessee, of the land-holding in question hereunder described as follows:

'A parcel of partly coconut and partly rice land containing an area of 4 has, more or less, situated in Barrio Binanwaan, Talisay, Camarines Norte, bounded: on the North by Quiong Chioco; on the East by Narnoc Creek; on the South by Adela Oco; and on the west, by Francisca David',

whose tenancy relationship over the above-described property had not been terminated or extinguished by abandonment, and the institution of defendant Herculano Cereno as tenant on the landholding by its landowners is null and void and illegal;

"2. Ordering the defendants to immediately vacate the landholding hereinabove-described and deliver the possession thereof to plaintiff and, thereafter, to maintain the plaintiff in the peaceful possession and cultivation of the landholding, as agricultural lessee thereon, with all the other rights granted and obligations imposed under existing laws and Presidential Decrees on land reform;

"3. Ordering the defendants Francisca Cuaño Aguilar, Prescilla Cuaño and Rafael Obusan (Heirs of Juan Cuaño) to pay plaintiff as damages for illegal dispossession from the landholding 554.29 cavans and 3.19.20 gantas of palay, excluding the container, at 44 kilos per cavan, representing the total number of cavans of palay which the plaintiff would have received from the landholding had he not been dispossessed thereof for the ten (10) "tambay" croppings and the ten (10) "habagat" croppings that have already taken place on the landholding, starting from the "tambay" cropping of 1966-67 up to the writing of this decision, at the rate of 32.49 cavans and 7.98 gantas per "tambay" cropping, and 22.98 cavans and 9 gantas per "habagat" cropping, starting during the "habagat" cropping of 1967, or their total money value of P11, 085. 80, with interest thereon at the legal rate, counted from the date of this decision, until the said palay is delivered to plain-tiff or the value thereof paid. And, for every "tambay" cropping and "habagat" cropping hereafter, defendant Francisca Aguilar Cuaño, Prescilla Cuaño and Rafael Obusan (Heirs of Juan Cuaño) must also pay the plaintiff 32.49 cavans and 7.98 gantas of palay for the "tambay" cropping and 22.98 cavans and 9 gantas for the "habagat" cropping, until plaintiff is finally reinstated on the landholding.

"4. Defendants Francisca Cuaño, Prescilla Cuaño and Rafael Obusan (Heirs of Juan Cuaño) must further pay the plain-tiff P60.00, representing the money value of the two (2) cavans of seedling already prepared by the plaintiff to be planted on the landholding but which were destroyed and wasted because of his dispossession of the landholding.

"5. Defendant Jesus King is hereby absolved from whatever damages plaintiff may have suffered on account of plaintiff's dispossession of the landholding.

"6. Upon the reinstatement of the plaintiff on the landholding a provisional rental is hereby fixed for the riceland

portion of the landholding in question, based on twenty-five (25%) per centum of the harvest, both for the "habagat" and the "tambay" cropping, after deducting first the deductible items allowed under the law. After the plaintiff shall have already cultivated the landholding and sufficient legal basis already exist for the fixing of the lease rental, then the parties shall fix the same in accordance with Section 34 of Republic Act 3844, as amended by Section 5 of Republic Act 6382i and, if the parties cannot agree on a fix rental then the matter of fixing the same must be brought to the proper authorities.

"7. Plaintiff's other claims are hereby denied for insufficiency of evidence.

"8. Defendant' respective counter claims are hereby denied for lack of merit.

"9. Defendants Francisca Cuaño Aguilar, Frescilla Cuaño and Rafael Obusan (Heirs of Juan Cuaño) must pay the costs of this suit.

"SO ORDERED. "

On appeal, the Court of Appeals affirmed in toto the above-cited decision. Hence, this petition.

After private respondent had filed his comment (Rollo, p. 72) in compliance with the resolution of July 27, 1977 (Rollo, p. 69), the petition was given due course in the resolution of September 16, 1977 (Rollo, p. 85), and the parties were required among others to submit simultaneous memoranda within thirty (30) days from notice.

However, petitioner filed his reply to said comment (Rollo, p. 86) which reply was noted by the Court in the resolution of October 14, 1977 (Rollo, p. 92) the petition for review having been given due course already in the resolution of September 16, 1977.

Both petitioners and private respondent then filed their respective memoranda (Rollo, pp. 94-103; pp. 113-126).

Meanwhile, on January 31, 1978, counsel for petitioners filed a Manifestation informing this Court that Private respondent Pedro Ibana died on November 30, 1977 with Certificate of Death attached as Annex "A". (Rollo, pp. 128-129).

Said Manifestation was noted by the Court in the resolution of February 3, 1978 (Rollo, p. 130).

In their memorandum, petitioners raised the following issues:

- Whether the doctrine of res judicata may apply to the case at bar.
- Whether the conclusions drawn by the Court of Appeals from proven facts are correct.
- Whether the Court of Appeals decision is in accordance with the established precedents and rulings laid down by the Supreme Court.

The petition is devoid of merit.

I.

In CAR Case No. 288-CN '67 "Pedro Ibana v. Heirs of Juan Cuaño, et al., petitioners filed a Motion to Dismiss on the ground that there is a complaint for forcible entry and detainer filed before the Municipal Court of Talisay, Camarines Norte, docketed as Civil Case No. 56. On the other hand, private respondent opposed said motion contending that the Court of Agrarian Relations should continue holding proceedings on the case because he has ample evidence to show that he is a tenant of the property and that the defendants cannot dispossess him therefrom without authority from said Court.

After hearing the Court of Agrarian Relations ruled:

"In view of all the foregoing considerations, the Court believes that it should refrain from proceeding with the above-entitled case pending the final determination of the Civil Case No. 56 in the Municipal Court of Talisay, Camarines Sur.

"WHEREFORE, the motion to dismiss is hereby GRANTED, but the dismissal should be, as it is, a dismissal without prejudice. Without pronouncement as to costs. " (Annex "A" - ORDER in CAR Case No. 288 CN-1967, Rollo, pp. 76-83).

Time and again the Court has ruled that for a judgment to be a bar to a subsequent case, the following requisites must concur: (1) it must be a final judgment; (2) the court which rendered it had jurisdiction over the subject matter and the parties; (3) it must be a judgment on the merits; and (4) there must be identity between the two cases, as to parties, subject matter and cause of action. (Philippine Commercial and Industrial Bank v. Pflider, 65 SCRA 13; Municipality of Hagonoy, Bulacan v. Secretary of Agriculture and Natural Resources, 73 Phil. 507; Dacasin v. Court of Appeals, 80 SCRA 89; Obdulia v. Ong, 82 SCRA 337; Garus v. Court of Appeals, 95 SCRA 530; Pantranco North Express, Inc. v. NLRC, 126 SCRA 526; Marapao v. Mendoza, 119 SCRA 99; Carandang v. Venturanza, L-41940, November 21, 1984; 133 SCRA 344; Sy Kao v. Court of Appeals, L-61752, September 28, 1984, 132 SCRA 302; Martinez v. Court of Appeals, L-41425, November 11, 1985, 139 SCRA 558).

To distinguish a judgment on the merits from a mere non-suit, the rule laid down by the Supreme Court, is to the effect, that if both parties have been heard and have introduced testimony, or had an opportunity to do so, and the court, upon consideration of the law and facts as thus presented, dismisses the action, it is not a mere non-suit, but a judgment on the merits and a bar to any further suit on the same cause of action (Gitgano v. Borromeo, L-40429, November 29, 1984, citing 34 Corpus Juris, p. 290, 133 SCRA 437).

It is very clear in the ORDER of the court in CAR Case No. 288-CN '67, that the Court did not rule on the merits of the case but on the contrary after considering the manifestations of the parties and the jurisprudence on the matter, refrained from proceeding with the case pending the final determination of Civil Case No. 56, of the Municipal Court of Talisay, Camarines Norte. (Rollo, p. 78). Under the circumstances the motion to dismiss was granted but clarified that such dismissal was without prejudice. (Rollo, pp. 82-83).

It is therefore very evident that there was no judgment on the merits and the requisites for res judicata have not been met.

II

The conclusion drawn by the Court of Appeals in subject case is based on the findings of facts of the Court of Agrarian Relations.

It will be noted that there appears to be no controversy in aforesaid findings of facts except on the portion where private respondent went to Jomalig, Polilio, Quezon. Contrary to the findings of the trial court, petitioners allege that private respondent left the landholding and abandoned the same for two years, causing the termination or extinguishment of the tenancy relationship between petitioners and private respondent. They also claimed that even private respondent's son Artemio Ibana refused to be substituted for his father so that they had to get new tenants, at first Mariano Cabais who was later replaced by Herculano Cereno. However, during the first planting season in 1966, private respondent returned and filed a case with the Office of the Agrarian Counsel and thereafter, forcibly entered the landholding in May 1966, ousting the actual tiller therein Herculano Cereno. Thus petitioners filed the above-entitled forcible entry case. (Rollo, pp. 49-50).

After evaluating the conflicting evidence of the parties, the Court of Agrarian Relations gave credence to the

evidence presented by private respondent as against the evidence presented by the petitioners and declared that by great preponderance of evidence, plaintiff's (private respondent's) tenancy relationship over the landholding in question was not terminated. (Rollo, pp. 50-51).

As found by the trial court, private respondent's going to Jomalig cannot be characterized with such a state of permanence, that he may be taken to have abandoned the landholding. His testimony of this fact was found to be clear and positive and finds sufficient corroboration from the testimonies of his witness Abraham Gallardo, a barrio councilor whose farm is barely 600 meters away from the land in question and of Artemio Ibana, his son and rebuttal witness, both equally clear and positive. (Rollo, pp. 51-52).

On the other hand, the testimony of petitioner Francisca Cuaño was found to be conflicting and irreconcilable which finds no sufficient corroboration from the evidence on record, apart from the fact that petitioners anchor their defense heavily on the decision of the Municipal Court in that Forcible Entry Case No. 56 which was however reversed on appeal by the Court of First Instance in Civil Case No. 1866, for lack of jurisdiction. (Rollo, pp. 54-55).

It is well settled, that the findings of facts of respondent Court of Appeals are conclusive on the parties and on this Court, (Tamayo v., Callejo, L-25563, July 28, 1972, 46 SCRA 27; Nery, et al. v. Lorenzo, et al., L-23096 & 23376, April 27, 1972, 44 SCRA 431; Vizcruis v. CA, L-29831, March 29, 1972, 44 SCRA 176; Dela Cruz, et al. v. CA, L-24000, Nov. 29, 1971, 42 SCRA 68; Naga Dev. Corp. v. CA, L-28175, Sept. 30, 1971, 41 SCRA 105; 115; Lacson & Basilio v. Pineda, et al., L-28523, July 16, 1971, 40 SCRA 35; Quiñiano, et al. v. CA, et al., L-23024, May 21, 1971, 39 SCRA 227; Reyes, et al. v. CA, et al., L-28466, March 27, 1971, 38 SCRA 138, 142; Gotamco Permanas v. Shotwell, et al., L-20656, Feb. 27, 1971, 37 SCRA 130, 136-137; Sime on v. Peña, L-29049, Dec. 29, 1970, 36 SCRA 611; People v. Jose Marzan alias Carling, G.R. No. L-63265, 128 SCRA 203, March 13, 1984; Samson v. CA, et al., G.R. No. L-40771, Jan. 29, 1986.)

"Unless (1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly, mistaken; (3) there is grave abuse o discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellees;[1] (7) the findings of facts of the Court of Appeals are contrary to those of the trial court; (8) said findings of facts are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents;[2] (10) the finding of fact of the Court of Appeals is premised on the sup-posed absence of evidence and is contradicted by evidence on record.[3] (Virgilio V. Sacay v. Sandigan Bayan, G.R. no. 66497-98, July 10, 1986)

Petitioners have failed to show that the findings of fact of the Court of Appeals, now Intermediate Appellate Court, adopting the findings and pronouncements of the agrarian court, fall under any of the above-enumerated exceptions and should the before be treated with great respect.

III

Petitioners failed to mention either in their petition or in their memorandum what aspects of the assailed decision of the Court of Appeals are not in accordance with established precedents and rulings laid down by the Supreme Court.

A careful perusal of the assailed decision shows however, that the main thrust of petitioners' claim is that the tenancy relationship was terminated resulting in the valid institution of Herculano Cereno as tenant of said landholding.

In ruling otherwise, the Court of Agrarian Relations held that private respondent is a de jure tenant, now agricultural lessee of the land in question who was illegally dispossessed and therefore entitled: (a) to reinstatement with damages (citing Sec. 27 (1) Rep. Act 1199, as amended and Sec. 31 (1) Republic Act 3844, as amended) and (2) to change the tenancy contract from one of share tenancy to leasehold system. Such right to change is unilateral and automatic on the part of the tenant and does not need the previous consent of the landholder before it becomes effective. (Citing Sec. 14, R. A. 1199 as amended and Pineda, et al. v. Pingol, et al., 92 Phil. 1065; Tizon v. Cabangon, et al., G.R. No. L-19753, Jan. 23, 1967) (Rollo, pp. 56-57).

Conversely, Cereno cannot seek protection from PD Nos. 27 and 316 because he is not a bona fide tenant of the landholding. At most he is only the actual tiller thereof.

The Agrarian Court further held that the private respondent shall be entitled to damages sustained by him on account of dispossession of his landholding under Republic Act 3844 which is equivalent to that portion of the harvest which he would have received after deducting first the leasehold rental due the defendant-landowners (petitioners herein) and to the cost of the wasted seedlings which he had already prepared for transplanting when he was dispossessed. (Rollo. pp. 60-63).

Under the foregoing considerations, there appears to be no cogent reason to disturb the findings of the Court of Agrarian Relations which were affirmed by the defunct Court of Appeals.

PREMISES CONSIDERED the assailed decision of respondent Court of Appeals (now Intermediate Appellate Court) is hereby AFFIRMED.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Gutierrez, Jr., JJ., concur.

[1] Ramos vs. Pepsi-Cola Bottling Co., February 8, 1967, 19 SCRA 289, 291-292; Roque vs. Buan, Oct. 31, 1967, 21 SCRA 648, 651.

[2] Garcia vs. CA, June 30, 1970, 33 SCRA 622; Alsua-Bett vs. Court of Appeals, July 30, 1979, 92 SCRA 322, 366.

[3] Salazar vs. Gutierrez, May 29, 1970, 33 SCRA 243, 247.

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