

FELIPE DE VENECIA AND FAUSTO MANXPON, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS AND MIGUEL DOMANTAY, RESPONDENTS.

G.R. No. L-49872. June 20, 1988

Ponente: FELICIANO, J.

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FELICIANO, J.:

The case at bar, which involves a diminutive piece of agricultural land no more than 1-1/2 hectares in area but which twice was elevated to the Court of Appeals and is now before this Court, originated from CAR Case No. 1507-P-66. This was a complaint filed back in 1966 for reliquidation of accounts, change of tenancy system and damages, filed with the Court of Agrarian Relations (CAR) of Lingayen, Pangasinan against petitioners Felipe de Venecia and Fausto Manipon by respondent Miguel Domantay, who claimed that he was an agricultural tenant of petitioner de Venecia. That complaint was dismissed by the CAR on the ground that no tenancy relationship existed between petitioner de Venecia and respondent Domantay.

An appeal (docketed as C.A.-G.R. No. 41182-R) was subsequently interposed by respondent Domantay with the Court of Appeals. On 3 December 1976, the Court of Appeals rendered a decision,[1] holding that a tenancy relationship did exist between private respondent Domantay and petitioner de Venecia, but that Domantay had committed "acts justifying his dispossession of the landholding in question": he had been maintaining gambling operations in the premises and had surreptitiously harvested bamboo from the land and sold the same. The Court held that "[unquestionably, these acts are inimical to the tenancy and constitute — grounds for ejectment of the tenant under Section 50 (c) of Republic Act No. 1199, as amended —." The dispositive portion of this decision reads:

"WHEREFORE, the appealed decision is hereby set aside and a new one rendered:

- (1) Declaring the existence of [a] tenancy relationship between the appellant and the appellee Felipe de Venecia over the landholding in question;
- (2) Ordering the appellee Felipe de Venecia to pay the appellant the amount of P432.12 as the latter's short shares for the agricultural years 1964-1965 and 1965-1966;
- (3) Ordering the ejectment of the appellant from the landholding in question, but leaving to the lower court the determination of whether it should be implemented in view of Presidential Decree No. 316, in relation to Presidential Decree No. 27, and the implementing guidelines in Memorandum Circular No. 29. Series of 1973, of the Department of Agrarian Reform.
- (4) No pronouncement as to costs.

SO ORDERED."

The above judgment of the Court of Appeals became final and executory on 3 January 1977. Upon remand of the case to the CAR, petitioners de Venecia and Manipon filed a motion praying for issuance of a writ of execution of

paragraph 3 of said judgment; respondent Domantay, upon the other hand, sought execution of paragraphs 1 and 2 thereof.

On 23 February 1977, the CAR with Judge Arturo V. Malazo presiding, issued an order[2] referring the matter to the now defunct Ministry of Agrarian Reform (MAR), Lingayen Team, for the purpose of determining whether execution of paragraph 3 would run counter to Presidential Decree No. 316, in relation to Presidential Decree No. 27 — i.e., to determine whether or not eviction of respondent was proper under the circumstances.[3]

Petitioners De Venecia and Manipon filed a second motion for execution dated 15 December 1977 alleging that a writ of execution should issue as a matter of course, considering that the 3 December 1976 decision of the Court of Appeals in C.A.-G.R. No. 41182-R had already become final and executory, and that referral of the matter to the MAR was not required under Presidential Decree No. 1038. In his opposition, respondent Domantay, citing paragraph 1 of said Court of Appeals' decision which declared the existence of a tenancy relationship between the parties, contended that he was entitled to security of tenure under the provisions of Republic Act No. 1199 and Section 35 of Republic Act No. 3844. Domantay alleged further that under the same Presidential Decree No. 1038, issuance of a certification by the MAR in this case was proper and necessary.

In an Order[4] issued on 9 March 1978, the CAR found Presidential Decree No. 1038 to be inapplicable and granted petitioners' second motion for execution. Respondent Domantay's motion for reconsideration was subsequently denied on 11 May 1978 by the CAR, as moot and academic, Domantay "having been effectively dispossessed" of the property in dispute.[5]

For the second time, respondent Domantay went on appeal (docketed as CA-G.R. No. 08009-SP) to the Court of Appeals, contending that the decision in C.A.-G.R. No. 41182-R, in particular paragraph 3 thereof, had not yet been executed, considering that he had not been effectively dispossessed of the disputed property. On 12 January 1979, the Court of Appeals, rendered a decision[6] in C.A.-G.R. No. 08009-SP, setting aside the CAR order of 11 May 1978 and the portion of the writ of execution ordering the ejectment of Domantay.

In the present Petition for Review, petitioners de Venecia and Manipon assail the decision in C.A.-G.R. No. 08009-SP, assigning the following errors:

- The Court of Appeals erred and gravely abused its discretion in holding that the order of the CAR dated 9 March 1978, ordering the issuance of a Writ of Execution for paragraph 3 of the decision in CA-G.R. No. 41182-R, was violative of Presidential Decree No. 316 in relation to Presidential Decree No. 27 and Memorandum Circular No. 29, series of 1973 of the Ministry of Agrarian Reform.
- The Court of Appeals erred and gravely abused its discretion in not declaring void ab initio the certification issued by the Ministry of Agrarian Reform that paragraph 3 of the said decision in CA- G.R. No. 41182-R was not proper for implementation.
- The Court of Appeals erred and gravely abused its discretion in not holding that the issue in the case at bar was "[w]hether or not the decision of the Court of Appeals in CA-G.R. No. 41182-R dated 3 December 1976, particularly paragraph 3 had been executed [so] as to render moot and academic the motion of the respondent."

The three (3) errors assigned above being interrelated, we deal with them below together.

We note, in the first place, that the decision in C.A.-G.R. No. 08009-SP in effect reiterated paragraph 3 of the dispositive part of the decision rendered earlier by the Court of Appeals in C.A.-G.R. No. 41182-R. In C.A.-G.R. No. 08009-SP, the Court of Appeals said:

xxx xxx xxx

However, with regards to Paragraph 3 of our decision, the ejectment of the plaintiff-appellant can not yet be enforced. We specifically left to the lower court the determination of whether or not the ejectment of the plaintiff-appellant is proper in view of Presidential Decree No. 316, in relation to Presidential Decree No. 27 and Memorandum Circular No. 29, Series of 1973, of the Ministry of Agrarian Reform. Indeed, the lower court referred the matter to the Ministry of Agrarian Reform on February 25, 1977 (*Ibid.*, p. 290), which certified on February 8, 1978 that the case involves the ejectment of, or is designed to harass or to remove, the actual tiller or tenant-farmer. In view of this certification, Paragraph 3 of our decision ordering the ejectment of plaintiff can not yet be implemented or executed. The certification of the Ministry of Agrarian Reform constitutes then a justiciable defense against the implementation of appellant's ejectment by means of a writ of execution, *x x x*."

It will be recalled that the earlier decision in C.A.-G.R. No. 41182-R left it up to "the lower court" (i.e., the CAR) to determine "whether [the ejectment of Domantay from the landholding in question] should be implemented in view of Presidential Decree No. 316, in relation to Presidential Decree No. 27, and the implementing guidelines in Memorandum Circular No. 29, Series of 1973, of the Department of Agrarian Reform." As also noted earlier, the CAR on 23 February 1977, referred to the Ministry of Agrarian Reform the question of whether execution of paragraph 3 (the ejectment of private respondent Domantay) could be implemented in view of the provisions of Presidential Decree No. 316, in relation to Presidential Decree No. 27. The Ministry of Agrarian Reform, on 8 February 1978, responded by certifying that the case involved the ejectment of, or was designed to harass or to remove, the actual tiller or tenant-farmer.[7] The record shows, however, that the CAR (this time with Judge Ludovico M. Ipac presiding) also subsequently issued on 25 January 1978 an order to the following effect:

"For purposes of resolving the motion for execution dated December 15, 1977, defendant is hereby ordered to show proof to this Court that at the time Presidential Decree No. 1038 was promulgated on October 21, 1976, CA-G.R. No. 41182-R, entitled 'Miguel Domantay, plaintiff-appellant, versus Felipe de Venecia, et al, defendants-appellees,' had been submitted for decision by the Court of Appeals." [8]

A close examination of Presidential Decree No. 316 and Presidential Decree No. 1038 will show that the CAR by the last-quoted order in effect, revoked and set aside its own order of referral previously made on 25 February 1977 to the Ministry of Agrarian Reform.

Both the C.A.-G.R. No. 41182-R decision and the C.A.-G.R. No. 08009-SP decision referred to Presidential Decree No. 316 in relation to Presidential Decree No. 27. Sections 1 and 2 of Presidential Decree No. 316 provide as follows:

"Section 1. No tenant farmer in agricultural lands primarily devoted to rice and corn shall be ejected or removed from his farmholding until such time as the respective rights of the tenant-farmer and the landowner shall have been determined in accordance with the rules and regulations implementing Presidential Decree No. 27."

"Section 2. Unless certified by the Secretary of Agrarian Reform as a proper case for trial or hearing by a court or judge or other officer of competent jurisdiction, no judge of the Court of Agrarian Relations, Court of First Instance, municipal or city court, or any other tribunal or fiscal shall take cognizance of any ejectment case or any other case designed to harass or remove a tenant of an agricultural land primarily devoted to rice and corn, and if any such cases are filed, these cases shall first be referred to the Secretary of Agrarian Reform or his authorized representative in the locality for a preliminary determination of the relationship between the contending parties. If the Secretary of Agrarian Reform finds that the case is a proper case for the court or judge or other hearing officer to hear, he shall so certify and such court, judge or other hearing officer may assume jurisdiction over the dispute or controversy." (*Italics supplied*).

It will be immediately apparent that Presidential Decree No. 316 referred only to agricultural lands ""primarily

devoted to rice and corn" The land involved in the instant case, however, the record shows, was principally planted to mango trees and not to rice or corn. There was, in other words, no need at all for the Court of Appeals to have referred to Presidential Decree No. 316 nor to have conditioned the ejectment of private respondent Domantay from the land in question to compatibility of such ejectment with Presidential Decree No. 316.

Shortly before the promulgation of the C.A.-G.R. No. 41 182-R decision on 3 December 1976, Presidential Decree No. 1038 was promulgated on 21 October 1976 [9] Presidential Decree No. 1038 applied specifically to private agricultural lands devoted to crops other than rice or corn:

Section 1. The tenure of the tenant-tillers in private agricultural lands devoted to crops other than rice and/or corn, including but not limited to those primarily planted to abaca, banana, coconut, coffee, mango, durian and other permanent trees, shall be secured and no tenant-tiller shall be removed, ejected, ousted or excluded from his farmholding unless for causes provided by law and directed by a final decision or order of the court." (Italics supplied)

In other words, both the C.A.-G.R. No. 41182-R decision and the C.A.-G.R. No. 08009-SP decision should have referred to Presidential Decree No. 1038 rather than Presidential Decree No. 316, just as the CAR referred to Presidential Decree No. 1038 in its order of 25 January 1978.

The question then arises as to whether Presidential Decree No. 1038 was applicable to the facts of the case at bar so as to require us to read into both the 41182-R decision and the 08009-SP decision a reference to Presidential Decree No. 1038.

Sections 2 and 3 of Presidential Decree No. 1038 read as follows:

"Section 2. No judge of the courts of agrarian relations, courts of first instance, city or municipal courts, or any other tribunal or fiscal shall take cognizance of any ejectment case or any other case designed to harass or remove a tenant of an agricultural land primarily devoted to rice and/or corn, unless certified by the Secretary of Agrarian Reform as a proper case for trial or hearing by a court or judge or other officer of competent jurisdiction and, if any such case is filed, the case shall first be referred to the Secretary of Agrarian Reform or his authorized representative in the locality for a preliminary determination of the relationship between the contending parties. If the Secretary of Agrarian Reform or his authorized representative in the locality finds that the case is a proper case for the court or judge or other hearing officer to hear, he shall so certify and such court, judge or other hearing officer may assume jurisdiction over the dispute or controversy.

The preliminary determination of the relationship between the contending parties by the Secretary of Agrarian Reform, or his authorized representative, is not binding upon the court, judge or hearing officer to whom the case is certified as a proper case for trial. Said court, judge or hearing officer may, after due hearing, confirm, reverse or modify said preliminary determination as the evidence and substantial merits of the case may warrant."

"Section 3. All cases still pending before any court, fiscal or other investigating body which are not yet submitted for decision or resolution shall likewise be referred to the Department of Agrarian Reform for certification as provided in the preceding section.[10] (Italics supplied)

Under Section 3 quoted above, it should be noted, a case already submitted for decision before any court was exempted from the requirement of referral to the Secretary of Agrarian Reform for certification purposes. Herein lies the reason why the CAR issued its order of 25 January 1978 referred to earlier requiring ascertainment of the time when C.A.-G.R. No. 41182-R had been submitted for decision by the Court of Appeals. Complying with this directive of the CAR, petitioner submitted a certification from the Clerk of Court of the Court of Appeals relating to C.A.-G.R. No. 41182-R:

"This is to certify that the reply brief in case CA-G.R. No. 41182-R, entitled Miguel Domantay vs. Felipe de Venecia and Fausto Manipon, was filed and received by this Court on October 29, 1968, the date the case was deemed submitted for decision, pursuant to Rule 48, Section 1, of the Rules of Court. The case was however raffled and submitted for decision on January 21, 1969.

This certification is issued as per instruction of the Former Eight Division embodied in its Resolution of February 22, 1978."^[11] (*Italics supplied*)

Because C. A.-G.R. No. 41182-R had been submitted for decision on 21 January 1969, more than seven (7) years before the coming into effect of Presidential Decree No. 1038, the requirements of that Presidential Decree could not, in accordance with its own terms, be made applicable to the instant case.

Clearly, therefore, there was no statutory requirement applicable to the instant case that compelled the CAR to withhold execution of paragraph 3 of the dispositive portion of the 41182-R decision. Put a little differently, the order of the CAR dated 9 March 1978 granting petitioners' Motion for Issuance of a Writ of Execution covering the ejectment of private respondent Domantay, was not violative either of Presidential Decree No. 316 nor of Presidential Decree No. 1038. It follows also that the certification of the Ministry of Agrarian Reform of 8 February 1978 that the instant case was not yet proper for execution, must be regarded as unnecessary and legally ineffective.

WHEREFORE, the decision of the Court of Appeals dated 12 January 1979 in C.A.-G.R. No. 08009-SP is hereby REVERSED and SET ASIDE. The order of the Court of Agrarian Relations dated 9 May 1978 in CAR Case No. 1507-P-66 ordering the Issuance of a Writ of Execution to implement the decision in CA.-G.R. No. 41182-R is hereby REINSTATED as well as the corresponding Writ of Execution issued on 15 March 1978. Costs against private respondent Domantay.

SO ORDERED

Fernan (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, pp. 15-22, Annex "A" of Petition.

[2] *Id.*, p. 25, Annex "C" of Petition.

[3] *Id.*, p. 33, Annex "G" of Petition.

[4] *Id.*, pp. 35-36, Annex "I" of Petition.

[5] *Id.*, pp. 46-47; Order, Annex "L" of Petition.

[6] *Id.*, pp. 48-53, Annex "M" of Petition.

[7] Rollo, p. 33; Annex "G" of the Petition.

[8] Rollo, p. 32; Annex "F" of the Petition.

[9] Text in 73 Official Gazette, pp. 746-748 (31 January 1977).

[10] 73 Official Gazette at p. 747 (31 January 1977). We have carefully checked the underscored portion of Section 2 and it is apparent to the Court that there was inadvertent error in including the phrase "agricultural land primarily devoted to rice and/or corn." Quite probable, the intended phrase was: "private agricultural lands devoted to crops other than rice and/or corn," which is the phraseology found in Section 1 of P.D. No. 1038 and

which is the subject matter itself of P.D. No. 1038, since the security of tenure of tenants of rice and corn lands was already provided for in Section 2 of P.D. 316. It appears that this portion of Section 2 of P.D. No. 1038 was never subsequently amended. The discussion in the text above assumes that Section 2 meant to refer to "agricultural land devoted to crops other than rice and/ or corn." Fortunately, it is not necessary to go into the fine jurisprudential problem of whether the Court is authorized to make such an assumption.

If, upon the other hand, it be assumed that Section 2 of P.D. No. 1038 correctly referred to rice and/or corn lands, then, simply, such Section 2 does not apply to the instant case involving a mango plantation.

[11] Rollo, p. 34: Annex "H" of Petition.

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