

**ROSINA C. GRAZA, FELIZARDO GRAZA AND JOSE BARRAQUIO,
PETITIONERS, VS. HON. COURT OF APPEALS AND ANTONIO SAYAO,
RESPONDENTS.***G.R. No. L-48368. June 29, 1988*

Ponente: GUTIERREZ, JR., J.

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This is an appeal by way of certiorari from the decision of the Court of Appeals which affirmed the orders of the defunct Court of Agrarian Relations, Seventh Regional District, Branch I, San Pablo City. The first order granted the private respondent's motion for withdrawal of cash deposits from the Clerk of Court while the second order denied the petitioners' motion for reconsideration of the earlier order.

The petitioners filed a complaint for ejectment against the private respondent docketed as CAR Case No. 1950 with the agrarian court abovementioned. The complaint alleged, among others: that petitioner Rosina C. Graza is the owner of a parcel of land planted to palay and located at Barrio Pooc, Santa Rosa, Laguna, designated as Lot No. 1623 of the Santa Rosa Estate Subdivision; that said land is under the management of petitioner Felizardo Graza, Rosina's husband, with petitioner Jose Barraquio as bona fide agricultural tenant until 1957, that in 1957, Barraquio due to his failing eyesight took in respondent Sayao as sub-tenant for his own account without the previous knowledge and consent of the petitioner spouses; that in March 1968, Barraquio dismissed Sayao as his sub-tenant notifying him accordingly; and that on July 27, 1968, Sayao, through intimidation, stealth and strategy, entered the subject riceland, claimed to be the tenant thereof, and planted palay thereon once or twice a year up to the time the ejectment case was filed due to his refusal to leave the land in question despite the landowners' repeated demands for him to vacate it.

On August 11, 1969, respondent Sayao, in his answer, counter-alleged, among others; that petitioner Barraquio is not a bona fide agricultural tenant, the truth of the matter being that petitioner Barraquio and respondent Sayao were originally co-tenants of the subject landholding sharing the produce of palay with the petitioner spouses on a 45-55 basis with the knowledge and consent of one Salud Castisiano, administratrix of petitioner spouses; that the 55% had been shared by the co-tenants on a 50-50 basis since 1957 up to 1968 when petitioner Barraquio voluntarily left the landholding because of the permanent incapacity of his eyes; that on November 27, 1968 during the "palagad" cropping season, petitioner spouses, through their overseer Alfonso Almadovar, and respondent Sayao shared the produce of palay on a 30-70 basis in the latter's favor; and that the share of petitioner spouses during said cropping season consisted of 44.4 cavans of palay received by Almadovar in their behalf with proper receipts.

In the course of the trial of CAR Case No. 1950, several interlocutory orders were issued concerning the temporary liquidation of the harvests from the landholding. Initially, on October 16, 1969 the agrarian court ordered that 25% of the net harvest be given outright to the petitioners; 30% of the remaining net harvest to be given outright to the private respondent; and the remaining 45% to be sold to the highest bidder in the locality and

the proceeds thereof to be deposited with the Clerk of Court in the name of both parties until further orders. Subsequently, the agrarian court, on April 20, 1970, modified the net sharing by ordering that 55% be delivered to the private respondent, thus, reducing the share of the petitioners to 25% while the remaining 20% shall be sold to the highest bidder and the proceeds deposited with the court as earlier ordered.

On July 17, 1973, the agrarian court ordered that the proceedings before it be suspended pending the preliminary determination by the Department of Agrarian Reform (DAR) of the relationship between the parties pursuant to the prevailing agrarian laws.

On November 24, 1975, the Secretary of DAR, through the regional director, certified that:

"xxx after a preliminary determination of the relationship between the contending parties in the above-entitled case pursuant to Presidential Decree No. 316, in relation to Presidential Decree No. 27 and in accordance with the guidelines embodied in Memorandum Circular No. 29, Series of 1973 of the Department of Agrarian Reform implementing said Presidential Decree No. 316, the instant case is not proper for trial in the Court of Agrarian Relations, Branch I, San Pablo City, on the following grounds:

"1. That there exists tenancy relationship between defendant Antonio Sayao and plaintiffs - spouses Rosina C. Graza and Felizardo Graza;

"2. That the landholding involved in this case is primarily devoted to palay; and

"3. That the instant action is one of ejectment of the defendant-tenant farmer." (Original Records, p. 182)

On May 17, 1976, CAR Case No. 1950 was ordered archived as a result of the DAR's certification.

On July 13, 1976, the private respondent filed with the agrarian court a motion to withdraw the cash deposits with the clerk of court representing 20% of the net harvests from September 1970 to November 1975.

On August 25, 1976 and September 6, 1976 the agrarian court issued the assailed orders in relation to the above motion. While the appeal to the public respondent was pending, the private respondent withdrew from the clerk of court the aforesaid cash deposits.

On May 16, 1978, the public respondent dismissed the petitioners' appeal and upheld the issuance of the assailed orders on two main grounds, namely: that by virtue of the DAR certification that CAR Case No. 1950 is not proper for trial, all the proceedings held thereon were null and void for having been issued without jurisdiction, hence, the agrarian court had to order the return of the cash so deposited with the court to return things to status quo ante; and that the finding by DAR of the existence of a tenancy relationship between the contending parties is binding upon the agrarian court considering that under Presidential Decree No. 946, Section 12, the DAR is vested with the exclusive authority to determine the issue of relationship between the parties involved.

The petitioners alleged in their brief that the Court of Appeals committed the following errors:

I

"THE RESPONDENT HONORABLE COURT OF APPEALS ERRED IN INTERPRETING THE INHIBITION CONTAINED IN SECTION 2, PRESIDENTIAL DECREE NO. 316, AS REFERRING TO JURISDICTION RATHER THAN TO EXERCISE OF JURISDICTION AND, BECAUSE OF THIS ERROR, THE ORDERS OF THE COURT OF AGRARIAN RELATIONS OF AUGUST 25, 1976, GRANTING THE WITHDRAWAL OF THE DEPOSIT, AND OF SEPTEMBER 23, 1976, DENYING THE MOTION FOR RECONSIDERATION, SHOULD HAVE BEEN DECLARED NULL AND VOID.

II

"THE RESPONDENT HONORABLE COURT OF APPEALS ERRED, DUE TO CONFUSION BETWEEN

JURISDICTION AND THE EXERCISE OF JURISDICTION, IN HOLDING THAT THE VARIOUS ORDERS OF THE PROCEEDS OF THE SALE OF PARTS OF THE PALAY HARVESTS IN THE COURSE OF TEMPORARY LIQUIDATION ARE NULL AND VOID FOR LACK OF JURISDICTION.

III

"THE LOWER COURT ERRED IN FAILING TO APPLY THE NEW PROVISION OF SECTION 18, THIRD PARAGRAPH, PRESIDENTIAL DECREE NO. 946, WHEN PETITIONERS RAISED UP THE ISSUE THAT PETITIONER JOSE BARRAQUIO IS THE BONA FIDE TENANT OF THE LAND IN QUESTION VIS-A-VIS RESPONDENT ANTONIO SAYAO, AS BEING NECESSARY FOR A COMPLETE AND JUST DISPOSITION OF THE CASE." (Rollo, p. 57).

The pivotal issue in the above assigned errors rests on the effect of the certification issued by the Department of Agrarian Reform stating that CAR Case No. 1950 initiated by the petitioners is not proper for trial in the Court of Agrarian Relations, Branch I of San Pablo City.

The petitioners insist that the DAR's certification merely inhibited the agrarian court from exercising its jurisdiction over the case; hence, said court continues to have jurisdiction over the subject matter and persons of the parties. It is further intimated by the petitioners that since the assailed orders were issued after the agrarian court had ceased to have the authority to exercise its jurisdiction by virtue of the DAR's certification said orders were null and void, thus, the private respondent's withdrawal of the cash deposits was illegal.

Section 2 of Presidential Decree No. 316, captioned "Prohibiting the Ejectment of Tenant-Tillers from their Farm holding Pending the Promulgation of the Rules and Regulations Implementing Presidential Decree No. 27" provides, in unambiguous terms, that:

"Sec. 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."

Section 4 of the same decree contains a repealing clause which reads:

"Sec. 4. — All provisions of existing laws, orders, rules and regulations, or parts thereof, in conflict or inconsistent herewith are hereby repealed or modified accordingly."

Furthermore, Presidential Decree No. 583 with a similar repealing clause was subsequently issued prescribing penalties for the unlawful ejectment, exclusion, removal or ouster of tenant-farmers from their farm holdings. Sections 2 and 3 of said decree provide that:

"Sec. 2. — Any judge of the Court of Agrarian Relations, Court of First Instance, City or Municipal Court or any fiscal or other investigating officer, including members of the Armed Forces of the Philippines, who shall order the ejectment, ouster, exclusion or removal of any tenant-farmer from the land tilled by him or who shall take cognizance of any ejectment case or any other similar case designed to exclude, oust, eject or remove a tenant-farmer from the land tilled by him without first complying with the provisions of Presidential Decree No. 316 shall, upon conviction, be punished by prison mayor and perpetual absolute, disqualification.

"Sec. 3. — Any official or employee of the Government, including members of the Armed Forces of the

Philippines, who executes an order for the ouster, removal, exclusion or ejectment of a tenant-farmer, knowing that the order is unlawful as provided under Section 2 of this Decree shall, upon conviction, suffer the penalty of prison correccional and perpetual absolute disqualification."

From the aforequoted provisos, there is no doubt that unless a case is first referred to the Secretary of Agrarian Reform for a certification on whether or not an ejectment case involving the removal of a tenant of an agricultural land primarily devoted to rice and corn is proper for trial by the agrarian court, said court cannot try a case filed with it. The mandatory nature of the requirement is emphasized by criminal sanctions imposed for non-compliance.

The respondent court committed reversible error when, in upholding the assailed orders regarding the withdrawal of cash deposits from the Clerk of Court, it made the DAR finding exclusive and beyond the trial court's authority to re-examine. It stated:

"x x x to give effect to P.D. 316 — prohibiting the ejectment of a tenant-farmer from his landholding devoted to rice pending the implementation of PD 27, where a certification has been issued by the DAR to the effect that the case is not proper for trial in view of its findings that there exists a tenancy relationship between the contending parties, the certification is binding upon the court a quo considering that under Sec. 12 of PD 946, it is the DAR which is given the exclusive authority to determine the issue of relationship between the contending parties, x x x" (Rollo, p. 28)

We agree with the petitioners that the findings of the Secretary of Agrarian Reform in his certificate as to the supposed tenancy relationship between the contending parties are not binding on the lower court pursuant to Section 2 of Presidential Decree No. 316 and Section 12, sub-paragraph (r) of Presidential Decree No. 946. The Secretary's determination of the relationship between the parties is only preliminary. The same cannot be final and conclusive on the lower court.

The last three paragraphs of Section 12 of Presidential Decree No. 946 state that:

"No tenant-farmer in agricultural lands primarily devoted to rice and/or corn shall be ejected or removed from his farm holding 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.

"No Judge of the Courts of Agrarian Relations, Courts of First Instance, municipal or city 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, after hearing, may confirm, reverse or modify said preliminary determination as the evidence and substantial merits of the case may warrant." (Italics supplied)

The last paragraph of Section 12 of P.D. No. 946 supplements Section 2 of P.D. No. 316 and Sections 2 and 3 of P.D. No. 583 cited earlier. P.D. No. 946 provides that when a case involving an agricultural land is certified as a proper case for trial, the preliminary determination of the relationship between the contending parties by the

Secretary of Agrarian Reform does not bind the court assuming jurisdiction over said case. It is evidently with more reason that when the Secretary certifies that an agrarian case is not proper for trial, the court before which an appeal is ventilated regarding the effect of said certification must look into the bases of the Secretary's preliminary determination. Otherwise, the party adversely affected by the DAR's certification is left without any judicial recourse. Definitely, such an unjust and absurd result could not have been the intent of P.D. No. 946.

In the case at bar, the Secretary of Agrarian Reform in his certification made a finding that a tenancy relationship existed between the petitioner spouses and the private respondent. Is the finding supported by substantial evidence? Nowhere in the records is there a showing that the administrative finding is supported by evidence substantial enough to establish the presence of tenancy relations between the petitioners and the private respondent. In *Bicol Federation of Labor v. Cuyugan* (65 SCR A 195), we held that:

"Although the Code (of Agrarian Reforms) nowhere expressly defines the metes and bounds of the term 'agrarian' relations, there can be no doubt, considering the policy, objectives, spirit and purposes of that far-reaching legislation, that as used therein, the term embraces every situation where an individual provides his personal labor over a parcel of agricultural land belonging to another for the purpose principally of agricultural production, and where the former, for his labor input and other sundry contributions, is compensated either in wages or a share in the produce, or is obligated to pay lease rentals to the landowner."

Likewise, in the case of *Carag v. Court of Appeals* (151 SCRA 44) citing *Tiongson v. Court of Appeals* (130 SCRA 482) and *Guerrero v. Court of Appeals* (142 SCRA 136), we stated that the essential requisites of a tenancy relationship are as follows: (1) the parties are the landholder and the tenant; (2) the subject is agricultural land; (3) there is consent; (4) the purpose is agricultural production; (5) there is personal cultivation; and (6) there is sharing of harvests.

Whether or not a person is a tenant is an issue of fact reviewable on appeal or petition for review when the conclusion arrived at by the court below has no support in the evidence on record. The respondent court, in adjudging the private respondent as the bona fide tenant of the petitioner spouses, relied completely on the DAR's certification. There is no reference to any reliable investigative report or other supporting papers justifying the finding that there was a tenancy relationship between the landowners, and the alleged tenant. In fact, there was a failure to appreciate the following testimony in open court of the alleged tenant before the Court of Agrarian Relations, to wit:

"CROSS EXAMINATION

BY ATTY. ZAVALLA

Q

You stated Mr. Sayao that Mr. Jose Barraquio asked you in 1957 to work on the landholding in question. Did he tell you why he needed your help?

WITNESS:

A

Yes, sir.

Q

What was the reason given by Jose Barraquio?

A

He told me that he has a poor vision, sir.

Q

Before 1957 do you know if Barraquio was also the one cultivating this land?

A

No, sir.

Q

So, you happened to be acquainted with this land only from 1957.

ATTY. ZAVALLA

Is that correct?

WITNESS:

A

Yes, sir.

Q

And in that year 1957, you knew that this land in question is owned by Mrs. Graza, one of the plaintiffs in this case?

A

I don't know, sir.

Q

It appears from your direct testimony that this land is owned by Mrs. Graza. When for the first time did you know that this land is owned by Mrs. Graza?

A

In 1968, sir.

ATTY. ZAVALLA

Q

Do you know who is the owner of this land in 1957?

ATTY. CORONADO:

Already answered. According to witness, he does (sic) know the owner of the land in 1957 and it was only in 1968 when he knew that it was owned by Mrs. Graza.

ATTY. ZAVALLA:

My question is, if he knows the owner of the land in 1957.

COURT:

Alright, answer. Let us see what is his answer.

WITNESS:

A

No, sir.

ATTY. ZAVALLA:

Q

So, the first time you happened to know the owner of the land is in 1968. Is that right?

WITNESS:

A

Yes, sir.

Q

Did you not ask Jose Barraquio who owns this land when you talked with him in 1957?

A

No, sir.

Q

Later, after 1957 up to 1968, have you occasion to ask Jose Barraquio who owns this land?

A

No, sir.

ATTY. ZAVALLA:

Q

Did Jose Barraquio tell you why he was the one who asked you to work the land in 1957?

WITNESS:

A

He just told me to work the land, sir.

Q

Did he not tell you his capacity or connection with the land at the time that he asked you to work on it?

A

No, sir. (T.S.N., October 19, 1972, pp. 12-17)

x x x x x x x x

ATTY. ZAVALLA

Q

So, your dealings in connection with your working this land from 1957 to 1968 were with Jose Barraquio. Is that right?

WITNESS:

A

Yes, sir.

ATTY. ZAVALLA:

Q

Did Jose Barraquio tell you during that period that he was a tenant on the land landholding in question?

A

He did not mention anything. He just told me to work the land, sir. I don't know who is the owner of the land.

ATTY. ZAVALLA:

My question is whether Jose Barraquio told you that he was the tenant of the land at that time.

WITNESS:

A

He did not tell me that he is the tenant, sir. (Ibid, pp. 19-20)

The above declarations of the private respondent show the absence of any tenancy relationship between him and the petitioners. The respondent admitted in open court that any agreements with regard to his work on the landholding in question were made only with petitioner Barraquio, the recognized tenant of the petitioner spouses. Tenancy relationship can be created only with the consent of the true and lawful landowner. In this case the supposed tenant did not even know the landowner. The respondent court in affirming the orders of the agrarian court recognized a tenancy relationship between the petitioner spouses and the private respondent where none was present by the respondent's own admission. It has been our consistent ruling that in agrarian cases all that is required is "substantial evidence." Under the third paragraph of Section 18 of Presidential Decree No. 946, all that the appellate court has to do, insofar as the evidence in agrarian cases is concerned, is to determine whether the decision, order or portions thereof appealed from is supported by substantial evidence (See *Bagsican v. Court of Appeals*, 141 SCRA 226). Said quantum of evidence is wanting in this case.

The assailed orders are, therefore, modified with respect to the 75% share of the net harvest which was deposited and subsequently withdrawn by the private respondent. The status quo between the parties which the agrarian court should have maintained was that existing before they came to court. Under Section 33 of Republic Act No. 1199, as amended, the petitioner spouses as landowners are entitled to 25% share of the net harvest while the remaining 75% thereof pertains to their co-petitioner Barraquio as bona fide tenant (See *Benson v. Ocampo*, 6 SCRA 998). Moreover, although Section 24, subparagraph (2) of the said Act allows the employment of a subtenant in cases of illness or any temporary incapacity, we cannot consider said subtenancy in favor of the private respondent on account of Barraquio's failure to report the same to the landowners which he was duty-bound to do under the same provision. The obligations of Barraquio to Sayao for the assistance rendered by the latter cannot be determined in this case as no evidence on the matter was presented.

WHEREFORE, the instant petition is hereby granted. The respondent court's decision dated May 16, 1978 is SET ASIDE. The assailed orders of the agrarian court are modified as abovestated.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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