

BERNARDO LONARIA, PETITIONER, VS. JUDGE PASTOR L. DE GUZMAN AND FORTUNATA SANTIAGO, RESPONDENTS.*G.R. No. L-20940. September 29, 1967*

Ponente: ZALDIVAR, J.

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Petition for certiorari to review the order, dated November 26, 1962, of the Court of Agrarian Relations, Judge Pastor L. de Guzman, presiding, in CAR Case No. 60, Bulacan '62, ordering herein petitioner to pay additional rental of P25.00 yearly, increasing thereby the yearly rental from P200.00 to P225.00 of petitioner's landholding.

Petitioner Bernardo Lonaria has been an agricultural tenant since 1959, on the leasehold tenancy basis, over about two hectares of agricultural land belonging to respondent Fortunata Santiago. Petitioner used to pay a yearly rental of P200.00 therefor, but sometime in January 1962 the owner informed petitioner that effective immediately the rental was increased to P250.00, and that should tenant refuse to pay he would be ejected.

To protect his interests, petitioner filed, on February 15, 1962, before the Court of Agrarian Relations a petition alleging therein that the landholding had a normal average yearly net harvest of 30.8 cavans of palay and P65.00 worth of crops, and that pursuant to Section 46 of Republic Act 1199, as amended, the legal rental should be only 7.7 cavans of palay plus P16.25 a year. Respondent Fortunata Santiago in her answer, dated March 22, 1962, claimed that "respondent's land is a first class land and the area cultivated by petitioner yields 60 to 65 cavans a year." The parties entered into a trial on November 26, 1962 wherein petitioner offered his evidence, while respondent Santiago did not submit any. On the same day, respondent Judge issued in open court an order, the pertinent portions of which read:

"It appearing that the holding yields 130 cavans a year plus mangoes and vegetables, the amount of P25.00 increase sought for by the landholder in addition to the standing P200.00 lease rental is considered reasonable.

"WHEREFORE, petitioner is ordered to pay an additional amount of P25.00 or yearly, P225.00."

Petitioner filed a motion for reconsideration, on November 28, 1962, upon the grounds that (1) the affirmative and special defenses of respondent were denied, and (2) the evidence adduced during the trial was in direct contravention to said defenses. This motion for reconsideration was denied on December 26, 1962. A second motion for reconsideration, filed on January 22, 1963, claiming that the order of November 26, 1962 had no legal and factual bases and, hence, illegal, was Likewise denied on February 9, 1963.

Alleging that the decision was not supported by the evidence and that it was contrary to the provision of Republic Act No. 1199, as amended, the instant petition was filed before this Court, praying that the decision appealed from be set aside and that the issue be resolved on the basis of the evidence on record.

Respondent Fortunata Santiago filed April 1, 1963 a motion to dismiss upon the principal ground that the period for the filing of the notice of appeal had expired. This Court by resolution dated June 13, 1963 considered the motion to dismiss as respondent's answer. On July 8, 1963, however, respondents filed their "Answer" denying

petitioner's allegation that less than one-half of the landholding was devoted to the cultivation of palay, and likewise justifying the decision. Inasmuch as the requirement regarding the perfections of an appeal within the reglementary period is not only mandatory but also jurisdictional, and the failure to appeal on time has the effect of rendering final the judgment of the court, the resolution of the motion to dismiss filed by respondent on April 1, 1963 upon the ground that the appeal was not perfected on time must be given preferential attention.

Section 4 of Rule 43 of the Rules of Court pro-vides that appeals front an order, ruling or decision of the Court of Agrarian Relations shall be brought in a period of 15 days from notice of such ruling, or-der or decision. Was the instant appeal perfected within said reglementary period?

From the petitioner's opposition to the motion to dismiss, it appears that:

On November 26, 1962, the order appealed from was dictated in open court;

On November 28, 1962, the first motion for re-consideration was filed;

On January 4, 1963, petitioner's counsel re-ceived the court's resolution dated December 26, 1962 denying the motion. On this same day, counsel for peti-tioner filed two motions, to wit: (1) motion to fur-nish petitioner with copy of the order of November 26, 1962, and (2) motion to suspend period for finality of the order;

On January 18, 1963, petitioner's counsel re-ceived a copy of the order subject of the present ap-peal;

On January 22, 1963, counsel for petitioner filed his second motion for reconsideration;

On February 21, 1963, counsel for petitioner received copy of the order dated February 11, 1963 denying second motion for reconsideration;

On February 22, 1963, the instant appeal was filed. (Records, pp. 34-35)

Petitioner contends that the appeal was perfect-ed on time because only 7 or 5 days were consumed - seven days only, even if the period be counted from November 26, 1962, because from November 26 to Novem-ber 28, there were only 2 days; from January 18 to Jan-uary 22, there were only 4 days; and from February 21, 1963 to February 22, 1963 only one day; hence a total of seven days. If the period of appeal is to be count-ed from receipt of a copy of the decision which in this case was January 18, 1963, only a total of five days was consumed, because from January 18, 1963 to January 22, 1963, only 4 days transpired; and from February 21 to February 22, only one (1) day (Records, pp. 34-35).

From what date should the period of appeal be counted in the instant case? When petitioner filed his first motion for reconsideration on November 28, 1962, he certainly had knowledge of the order appealed from, otherwise there was no basis for his motion. This s evident from the preliminary statement in his motion for reconsideration which cited the dispositive portion of the order of the Court of Agrarian Relations, stating:

"The order sought to be reconsidered states that the petitioner is to pay a rental to respondent in the amount of P225.00 per year for the use of the land holding si-tuated in Valenzuela, Bulacan."

By filing said motion, he waived his right to the period of appeal counted from receipt of order. The reasons for the rule requiring that the period or appeal be counted from notice of the order or decision are, first, in order that the period may not commence to run until the party concerned has opportunity to take the steps he may deem proper in view of the order or decision, which steps he cannot take unless he has knowledge of the order or decision, which knowledge he acquires usually only upon receipt of a copy thereof; and second, so that the commencement of the period for the appeal may not be uncertain. These two purposes have already been fulfilled when petitioner filed his first motion for reconsideration. There is then no reason to say that in this case the period

of appeal should commence to run from the date he received a copy, of the order on January 18, 1963, because settled in law is the maxim: *cessante ratione legis, cessat et ipsa lex*, "where the reason of the law ceases, the law itself ceases."

The period for appeal should, therefore, commence from the filing of the first motion for reconsideration, that is, on November 28, 1962. But this period was immediately suspended by the filing of the motion, notice of denial of which he received on January 4, 1963. His filing on the same date the motion to suspend the finality of the order did not ipso facto suspend the running of the period from said date, for even petitioner himself does not claim that such motion was ever granted. Petitioner filed the second motion for reconsideration only on January 22, 1963. From January 4 to January 22, 1963, already 18 days had lapsed, more than the 15 days allowed for appeal. The filing of the second motion on January 22, 1963 did not suspend the running of the period, first because it was pro forma based on grounds already existing at the time of the first motion; and second, because there was no more period to suspend, as the period had already lapsed. Section 4 of Rule 14 of the Rules of the Court of Agrarian Relations provides:

"The filing of the motion for reconsideration shall stay the execution of the order or decision sought to be reconsidered and shall suspend the running of the period within which the appeal to the Supreme Court must be perfected; Provided, however, That a pro forma motion for reconsideration which is a reiteration of a first motion or is founded on a ground available at the time of the filing of such first motion will not interrupt the period of appeal."

Hence, this case must be dismissed for having been appealed beyond the reglementary period.

Having arrived at the foregoing conclusion, We do not consider it necessary to discuss the other points raised by petitioner in this appeal.

WHEREFORE, the petition for certiorari is dismissed, and the order of respondent Court of Agrarian Relations of November 26, 1962 is affirmed. No pronouncement as to costs.

Concepcion, C.J., Dizon, Makalintal, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

Reyes, J., reserves his vote.

Bengzon, J., on leave.

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