

**LORENZO IGNACIO AND MAGDALENA DELA CRUZ, PETITIONERS,
VS. THE HONORABLE COURT OF FIRST INSTANCE OF BULACAN AND
FELIZARDO LIPANA, RESPONDENTS.***G.R. Nos. L-27897-98. October 29, 1971*

Ponente: MAKALINTAL, J.

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Petition for certiorari and prohibition in forma pauperis questioning the jurisdiction of the Municipal Court of Plaridel, Bulacan, in an ejectment case against petitioners, which case was subsequently appealed to the Court of First Instance, where it was shown that another case had been filed ahead in the Court of Agrarian Relations wherein petitioners asked that they be declared the lawful tenants of the disputed landholding. Upon motion of petitioners, alleging that private respondent had moved in the Court of First Instance for the execution of its decision affirming an order of the Municipal Court which found them guilty of contempt of court and ordering them to vacate the landholding in question, We ordered the issuance of a writ of preliminary injunction upon the filing of a bond in the sum of P200.00.

The said landholding consists of two hectares, more or less, included in a larger tract owned by Felizardo Lipana and tenanted by Alipio Marcelo until his death on December 3, 1962. Two cases involving the land were pending in the Court of Agrarian Relations at the time of his death, namely: CAR Case No. 750-Bulacan '62, entitled "Alipio Marcelo vs. Felizardo Lipana"; and CAR Case No. 827-Bulacan '62, entitled "Felizardo Lipana vs. Alipio Marcelo." [1] In both cases the deceased was subsequently substituted by Maximo Marcelo and Emilia Tabol Vda. de Marcelo, surviving son and wife, respectively. A third case - CAR Case No. 895 - was filed on December 20, 1962 by Maximo Marcelo against Felizardo Lipana and Magdalena dela Cruz (the latter having been the alleged common-law wife of Alipio Marcelo), praying that he, Maximo, be declared as entitled to succeed to the tenancy right and status of the deceased. One of the allegations of Lipana in his answer to the complaint was that he "signified his intention to recognize as his tenant Magdalena dela Cruz, who is the widow of Alipio Marcelo." This is an admission that as far as Lipana was concerned it was Magdalena who had the right to succeed the deceased Alipio as tenant.

On July 23, 1963, acting on a motion of Maximo Marcelo to enjoin Magdalena dela Cruz from interfering with his peaceful cultivation of the landholding, as well as on an urgent motion of Felizardo Lipana for leave to cultivate the same land, the CAR issued the following order:

"For this Court to be able to resolve the above prayer and motion intelligently and judiciously, there is necessity for formal hearing to determine the following questions of fact:

- (1) Since the demise of the former tenant, Alipio Marcelo, who has been and is in actual possession and cultivation of the holding in question?
- (2) Did the deceased voluntarily surrender the holding to respondent in November 1962?

(3) Is Maximo Marcelo the natural son of the late Alipio Marcelo?

It appears, however, that these are the factual issues directly involved in CAR Case No. 895-Bulacan '62 where petitioner therein has already presented three (3) witnesses and several exhibits. Respondents have not yet presented any evidence. The cause of action indicated, therefore, is for this Court to withhold action on Maximo Marcelo's prayer for interlocutory order and Felizardo Lipana's urgent motion for leave to cultivate the holding.

In the meanwhile, to forestall any untoward incidents and in order not to disturb the productivity of the land, this Court shall undertake the cultivation thereof by administration through an impartial third-party. All the parties in the above-entitled cases shall be restricted from doing any act of cultivation or planting on the land and reaping, harvesting or threshing of crops thereon.

WHEREFORE, Maximo Marcelo, Emilia Tabol de Marcelo, Magdalena dela Cruz, Felizardo Lipana and/or their agents are directed to desist from performing any act of cultivation or planting on the landholding formerly tenanted by Alipio Marcelo at Lalangan, Plaridel, Bulacan, with a seedling capacity of 30 gantas of palay, or from reaping, harvesting or threshing any crops thereon until further orders from this court.

Pursuant to: Section 9, Rep. Act No. 1267, as amended, Mr. Severino Madronio, Agricultural Extension Officer, Bureau of Agricultural Extension, Bulacan, is hereby directed to repair to the landholding in question, take possession of the same and undertake the cultivation thereof and/or planting thereon according to his best judgment and to proven farm practices. If the hiring of laborers for the purpose of complying with this Order is called for, the afore-named Agricultural Extension Officer shall give preference of employment to Maximo Marcelo and Magdalena dela Cruz at the prevailing wage for agricultural laborers in the locality but in no case shall the wage be less than P2.50 per day, with no allowance for board and lodging."

Thereafter, a compromise agreement in the three CAR cases was entered into by Maximo Marcelo and Felizardo Lipana, wherein the former surrendered all his rights over the landholding in favor of the latter. A judgment in accordance with the terms and conditions of said compromise was thereupon rendered by the trial Judge on November 5, 1964, declaring that CAR Cases Nos. 750, 895 and 827 were deemed closed and terminated as between Maximo Marcelo and Felizardo Lipana.

On January 27, 1965 the CAR ordered the issuance of a writ of execution in the three cases. On the same date another order was issued, discharging the administration of the landholding by the Agricultural Extension Officer. On February 5, 1965 the corresponding writ of execution was issued, commanding the provincial sheriff of Bulacan to place Felizardo Lipana in possession; and on the following February 25 the provincial sheriff submitted to the court his return of service.

On July 15, 1965 Magdalena dela Cruz filed a complaint against Lipana (Case No. 1221), asking the CAR to declare her the lawful tenant of the landholding, to fix the annual rentals thereof during the past three years and to award damages in her favor by way of attorney's fees and consequential expenses. In her complaint she alleged that Alipio Marcelo, the former tenant, surrendered the landholding to Lipana on November 21, 1962, whereupon she succeeded as such tenant upon agreement with the latter; that on November 13, 1964 the CAR issued an order stating that the dismissal of CAR Case No. 895 was without prejudice to her right to file an independent action to assert her claim against Lipana, her co-defendant therein; that together with her husband[2] she continued to work on the land during the agricultural year 1964-65, but that after they had plowed the land in preparation for the agricultural year 1965-66 defendant's henchmen created some disturbance at the place for the purpose of ejecting her forcibly therefrom. Plaintiff was allowed to litigate as pauper, and notice of the filing of the complaint was served upon Lipana on July 31, 1965.

On July 29, 1965 Lipana in turn went to the Municipal Court of Plaridel, Bulacan on an action for "Ejectment

and Forcible Entry" (Civil Case No. 235), with a prayer for the issuance of a writ of preliminary injunction against Magdalena dela Cruz and her husband Lorenzo Ignacio, alleging that he, Lipana, had been placed in possession of the landholding by the provincial sheriff of Bulacan by virtue of the order of the CAR dated January 27, 1965 in CAR Cases Nos. 750, 827 and 895.

Defendants filed their answer with counterclaim on August 11, 1965, denying the substantial averments of the complaint and alleging as affirmative defense the pendency of CAR Case No. 1221. In their counterclaim for damages, defendants alleged that Magdalena dela Cruz was the tenant of Felizardo Lipana but that the latter wanted to eject her because she married her co-defendant Lorenzo Ignacio, who was a member of a farmers' organization in the locality.

On August 2, 1965 the Municipal Court of Plaridel ordered defendants, pending the hearing of the case on the merits, to desist from plowing, harrowing, and/or planting the land in question upon the filing by plain-tiff of a bond of P2,000.00.

On October 7, 1965 plaintiff filed a motion to declare defendants in contempt of court for having plowed, harrowed and planted the land in question in spite of the existence of the injunctive order. In their opposition dated October 18, 1965 defendants pointed out that they did so as tenants of the land subject of CAR Case No. 1221 and that if they observed the injunctive order of the Mu-nicipal Court they would in effect be violating their rights and obligations in said CAR case.

On November 25, 1965 the Municipal Court found defen-dants guilty of contempt and sentenced them to pay a fine of P50.00 each or suffer imprisonment for ten days. This order was appealed by defendants, in forma pauperis, to the Court of First Instance, where the case was docketed as Civil Case No. 3280-M.

On May 31, 1966 a decision in Civil Case No. 235 was rendered by the Municipal Court, ordering defendants to vacate the land and to remove their house therefrom. This decision was likewise appealed to the Court of First In-stance, where the case was docketed as Civil Case No. 3363-M. Again, defendants were allowed to appeal as pau-pers.

In due time the trial in CAR Case No. 1221 was terminated and the trial Judge, in an order dated Septem-ber 13, 1966, gave both parties fifteen days from notice that the stenographic notes had been transcribed within which to submit their memoranda, after which period the case would be deemed submitted for decision. The CAR, however, held its decision in abeyance for the reason that "it is powerless to modify or set aside the decision rendered by the Municipal Court in Civil Case No. 235, now on appeal with the Court of First Instance of Bulacan."

In Civil Cases Nos. 3280-M and 3363-M before the Court of First Instance, defendants (petitioners herein), in a motion dated April 28, 1967, asked for the postpone-ment of the hearing scheduled on May 2, 1967. The court denied the motion on May 2, 1967 and allowed plaintiff to present his evidence ex parte before the Deputy Clerk of Court.

On May 16, 1967 defendants filed a motion for recon-sideration, pleading that the evidence presented by plain-tiff be disregarded and the hearing of the case reset for another date. This motion was also denied.

On July 27, 1967 the Court of First Instance rendered judgment in Civil Cases Nos. 3280-M and 3363-M, which reads as follows:

"Wherefore, judgment is hereby rendered:

1. With respect to Civil Case No. 3280, finding the defendants guilty of contempt of court and sentencing them each to pay a fine in the sum of P50.00 or to suffer an imprisonment of 10 days;
2. With respect to Civil Case No. 3363, ordering the defendants and/or anybody acting under them, to vacate the premises in question and remove their house therefrom within 30 days from notice hereof."

The facts show clearly that these cases proceed from and involve essentially a tenancy dispute. Before Civil Case No. 235 was filed in the Municipal Court of Plaridel, three cases involving the same landholding had already been filed with the Court of Agrarian Relations. The issue as to who had been in actual possession of the land since the death of the tenant Alipio Marcelo was before the CAR in Case No. 895, a suit brought by Maximo Marcelo against Lipana and Magdalena dela Cruz, wherein he sought to be declared as the tenant by right of succession to Alipio Marcelo. The case, however, was dismissed together with CAR Cases Nos. 725 and 827 originally brought by Alipio Marcelo, without the issue of actual possession having been resolved, by virtue of the compromise agreement entered into between Maximo and Lipana. Magdalena dela Cruz thereafter filed her complaint - CAR Case No. 1221 - to have herself declared the lawful tenant of the landholding.

While it is true that the jurisdiction of the court in a suit for ejectment or forcible entry is determined by the allegations in the complaint, yet where tenancy is averred as a defense and, upon hearing, is shown to be the real issue, the court should dismiss the case for want of jurisdiction.[3] The decision of the CAR, it should be remembered, was rendered upon a compromise agreement between Maximo Marcelo and Felizardo Lipana. The right of Magdalena dela Cruz, who was a co-defendant in CAR Case No. 895, was not touched upon in said agreement. There the decision simply stated that CAR Cases Nos. 750, 827 and 895 were "deemed closed and terminated as between Maximo Marcelo and Felizardo Lipana;" and the writ of execution was limited to "placing Mr. Felizardo Lipana immediately in possession of the landholding formerly cultivated by Maximo Marcelo or any person, agent, and/or representative acting in behalf of Maximo Marcelo."

It was therefore incorrect for respondent court to conclude from the decision and writ of execution in the CAR cases that Lipana had actual possession, as against Magdalena dela Cruz, over the landholding prior to the alleged unlawful detainer and/or forcible entry. While both Maximo and Magdalena asserted the right to succeed to the tenancy of the same landholding after the death of Alipio Marcelo, the CAR did not adjudicate that right to either of them nor did it resolve the question as to who had actual possession of the landholding after the death of Alipio. What it did, in order to prevent further trouble between Maximo and Magdalena was to place the landholding under the administration of the Agricultural Extension Officer, with instruction that Maximo and Magdalena should be given preference in working on the land as laborers. The allegations in the complaint in CAR Case No. 1221 reveal that they worked on different portions of the land in accordance with the CAR's order. This was how things stood when Maximo entered into a compromise agreement with Lipana surrendering his rights over the landholding in favor of the latter. For all intents and purposes, therefore, the decision and writ of execution affected only the claim of Maximo Marcelo as tenant and his actual possession of the portion of the land on which he was working by virtue of the provisional arrangement ordered by the CAR. Since the tenancy dispute remained unresolved with respect to Magdalena dela Cruz and was actually the subject of litigation in CAR Case No. 1221, the filing of the ejectment case was an intrusion upon the jurisdiction of said court.

WHEREFORE, the writ prayed for is granted and the decision of respondent court in Civil Cases Nos. 3280-M and 3363-M is set aside. No costs.

Concepcion, C.J., Reyes, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] (a) CAR Case 750 was a claim of Alipio Marcelo for change of tenancy relationship from sharing to

leasehold; and reliquidation of the previous harvests against Felizardo Lipana;

(b) CAR Case 827 was a claim of Felizardo Lipana against Alipio Marcelo for accounting of the produce of auxiliary crops.

[2] Magdalena dela Cruz had married Lorenzo Ignacio on June 30, 1964.

[3] See Evangelista vs. Court of Agrarian Relations G.R. No. L-13875, October 31, 1960; Basilio vs. David G.R. No. L-8702, April 28, 1956.

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