

FERNANDO GALLARDO, PETITIONER-APPELLANT, VS. JUAN BORROMEIO, RESPONDENT-APPELLEE.

G.R. No. L-36007. May 25, 1988

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

Appeal by certiorari to review the decision dated October 24, 1972 of the Court of Appeals in CA-G.R. No. 00145-R affirming in toto the decision dated April 2, 1971 of the Court of Agrarian Relations, Fourth District of Guimba, Nueva Ecija, dismissing the complaint which the petitioner Fernando Gallardo filed on December 7, 1963 to terminate the leasehold of the respondent tenant so he (plaintiff) may cultivate it himself as he had retired from his government job as a letter carrier.

The respondent alleged that the petitioner has no knowledge of farming and that his only purpose is to eject the respondent from the landholding.

The trial court in its decision dated April 21, 1971, dismissed the petition and ordered the petitioner to maintain respondent in the peaceful possession of the landholding.

Petitioner appealed to the Court of Appeals which on October 24, 1972, rendered judgment affirming in toto the decision of the Court of Agrarian Relations. Applying Section 7, Republic Act 6389, it held that the landowner's desire to cultivate the land himself is not a valid ground for dispossessing the tenant.

In this petition for review on certiorari, the only issue is whether the Court of Appeals correctly gave retroactive application to Section 7 of R.A. 6389.

The applicable law when Gallardo filed his supplementary complaint was paragraph (1) of Section 36 of R.A. 3844 which provided:

"Sec. 36. Possession of Landholding Exceptions. - Notwithstanding any agreement as to the period or future surrender of the land, an agricultural lessee shall continue in the enjoyment and possession of his landholding except when his dispossession has been authorized by the Court in a judgment that is final and executory if after due hearing it is shown that:

"(1) The agricultural-lessor-owner or a member of his immediate family will personally cultivate the landholding or will convert the landholding, if suitably located, into residential, factory, hospital, or school site or other useful non-agricultural purposes: Provided, That the agricultural lessee shall be entitled to disturbance compensation equivalent to five years rental on his landholding in addition to his rights under Sections twenty-five and thirty-four, except when the land owned and leased by the agricultural lessor is not more than five hectares, in which case, instead of disturbance compensation the lessee maybe entitled to advance notice of at lease one agricultural year before ejectment proceedings are filed against him: Provided, further, That should the landholder not cultivate the land himself for three years or fail to substantially carry out such conversion within one year after the dispossession of the tenant, it shall be presumed that he acted in bad faith and the tenant shall have the right to demand possession of the land and recover damages for any loss incurred

by him because of said dispossession."

However, the above provision was amended on September 10, 1971, by Republic Act No. 6389 which eliminated the landowner's desire to personally cultivate the landholding, as a ground for the ejectment of the tenant.

However, consonant with Article 4 of the New Civil Code which provides that "laws shall have no retroactive effect unless therein otherwise provided", this Court ruled in the cases of *Nilo vs. Court of Appeals*, 128 SCRA 519 and *Castro vs. Castro*, 128 SCRA 519 and reiterated in *Diga vs. Adriano* 133 SCRA 421, that R.A. No. 6389 cannot be given retroactive effect in the absence of a statutory provision for retroactivity or a clear implication of the law to that effect. As We stated in *Nilo vs. Court of Appeals*, supra:

"A sound canon of statutory construction is that statute operates prospectively only and never retroactively, unless the legislative intent to the contrary is made manifest either by the express terms of the statute or by necessary implication. x x x No court will hold a statute to be retroactive when the legislature has not said so. x x x" (*Farrel vs. Pingree* [1888], 5 Utah, 443; 16 Pac., 843; *Greer v. City of Ashville* [1894], 114 N.C. 495; *United States Fidelity & Guaranty Co. v. Struthers Wells Co.* [1907], 209 U.S., 306).

Since Congress failed to express an intention to make Republic Act No. 6389 retroactive, it may not apply to ejectment cases then already pending adjudication by the courts.

We, therefor, hold that the 65-year old petitioner, who is government retiree may terminate the tenancy of the private respondent and till his own land as provided in Section 36 of R.A. 3844, which was the applicable law when he filed his petition.

WHEREFORE, judgment is hereby rendered setting aside the decision of the Agrarian Court and the Court of Appeals ordering the respondent-appellee to vacate his leasehold and to surrender its possession to the petitioner-appellant. No costs. This decision is immediately executory and no motion for extension of time to file a motion for reconsideration will be entertained.

SO ORDERED.

Narvasa, Cruz, and Gancayco, JJ., concur.

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