

**ALBERTO VALINO, PETITIONER, VS. HON. EMANUEL M. MUÑOZ,
HON. NUMERIANO INUMERABLE AND HERMINIO VASALLO,
RESPONDENTS.**

G.R. No. L-26151. October 22, 1970

Ponente: BARREDO, J.

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BARREDO, J.:

Original petition for certiorari - seeking the annulment of an order issued by the herein respondent Judge of the Court of First Instance of Bulacan in its Civil Case No. 3295 - with a prayer for the issuance of a writ of preliminary mandatory injunction commanding the herein respondent judge of the Municipal Court of San Ildefonso (same province) to proceed with its Criminal Case No. 817 therein initiated by the herein petitioner against private respondent, which proceedings were cancelled indefinitely by the municipal judge pursuant to the order of the former court, secured in an action for prohibition filed before it by private respondent.

The following facts alleged in the petition and in the answer, albeit the latter is unverified, appear to be indisputable:

Herein petitioner Alberto Valino was the tenant or agricultural lessee of certain lands situated in San Ildefonso, Bulacan, belonging to the herein private respondent Herminio Vasallo. Sometime before January 22, 1964, said private respondent must have filed with the Court of Agrarian Relations a request for permission to eject petitioner, for it appears that on said date, in CAR Case No. 909-Bul. '63, the said court rendered a decision purportedly based on an amicable settlement reading as follows:

"The parties, assisted by their respective counsel, submitted to this Court an amicable settlement dated January 22, 1964, the pertinent portions of which are hereunder-quoted as follows:

‘(1) That the respondent agrees that a decision be rendered against him authorizing the petitioner to eject him from the landholding in question, without admitting bad faith for non-payment of the rentals for the last two (2) agricultural years to the petitioner on the belief that the landholding belongs to his parents;

‘(2) That petitioner agrees to suspend the execution of the judgment authorizing him to eject the respondent from the landholding in question, as long as the herein respondent complies with his obligations in the payment of the yearly rental to the petitioner in the amount of thirty (30) cavanes of palay per agricultural year beginning the 1964-1965 agricultural year and thereafter;

‘(3) That parties agree, in connection with the deposited sixty cavanes of palay at the Belen Ricemill, petitioner shall receive forty (40) cavanes of said deposit and respondent shall receive 20 cavanes of said deposit, thus leaving a balance of 25 cavanes as indebtedness of the respondent to the petitioner;

‘(4) That parties agree that the indebtedness of the respondent to the petitioner in the amount of 25 cavanes shall be paid to the petitioner in two equal installments beginning with the agricultural year 1964-1965, in addition to the yearly rental;

'(5) That parties agree that any violation of the respondent, of the above agreement, will entitle the petitioner for an immediate execution of the judgment to eject the respondent.

'WHEREFORE, parties pray to this Honorable Court that judgment be rendered in the above-entitled case based on the terms and conditions of the foregoing amicable settlement.'

"Finding the foregoing amicable settlement not to be contrary to law, morals or public policy, the same is hereby approved; judgment is rendered in accordance with the terms and conditions thereof, and the parties are enjoined to comply strictly therewith."

"SO ORDERED."

Petitioner having allegedly failed to comply with the terms of the above amicable settlement, on April 27, 1965, Vasa-llo dispossessed Valino of the said landholdings and re-placed the latter with a new tenant, Leonardo Quiazon. On account of such dispossession Valino sought the intervention of the courts. Under date of 7 May 1965, he filed a criminal complaint against Vasallo, with the aforementioned municipal court alleging that the latter had "willfully, unlawfully and feloniously, with malice aforethought, dispossessed him of his landholding."

Not content with this criminal complaint, on 31 May 1965, petitioner also lodged against the same respondent a complaint for damages before the Court of Agrarian Relations at Malolos, Bulacan, which was docketed as CAR Case No. 1186, alleging, as main basis thereof substantially the same act of alleged illegal dispossession as that made the subject of the criminal case.

After the filing of this latter case, while the People was presenting its evidence in the criminal case, the accused, herein private respondent, presented a motion to suspend the proceedings on the ground that as the sole question to be resolved in it as well as in the case before the Agrarian Relations Court was whether or not the dispossession of petitioner was justified, the determination of such question by the latter court constituted a prejudicial one which must first be resolved in the Agrarian Court, considering that under the Land Reform Act, all controversies, disputes or money claims arising from agrarian relations fall within the original and exclusive jurisdiction of the Court of Agrarian Relations. This motion having been denied, private respondent commenced the action for prohibition above referred to in the Court of First Instance of Bulacan which, after due hearing, issued an order enjoining the municipal judge from continuing with the hearing of the criminal proceedings before it until after CAR Case No. 1186 shall have been disposed of. Respondent superior judge reasoned out his order thus:

"It appears that petitioner here-in is accused before the municipal court of San Ildefonso, Bulacan, under Criminal Case No. 817 for a violation of Par. 1, Sec. 31, Republic Act 3844 otherwise known as the Land Reform Code; that the complaining witness therein, Alberto Valino, likewise filed with the Court of Agrarian Relations, a complaint against herein petitioner, also for a violation of the same act. The latter case is designated as Case No. 1186 of the Court of Agrarian Relations.

"Considering that the controversy between the complainant and herein petitioner subject of the two cases falls within the jurisdiction of the Court of Agrarian Relations to pass upon the question of the legality of dispossession and that whatever resolution of the latter Court on the said question will necessarily have a bearing on the criminal case pending before the municipal court of San Ildefonso, Bulacan;

"WHEREFORE, upon plaintiff's filing of a bond in the sum of P500.00, let a writ of preliminary injunction be issued enjoining the Municipal Judge of San Ildefonso, Bulacan, from continuing with the hearing of Criminal Case No. 817 until after CAR Case No. 1186 shall have been disposed of."

Petitioner, however, was not made a party to the said action for prohibition; so, immediately after he came to know of the issuance of the above-quoted order, he filed an urgent motion to intervene in the case which was

granted, but when he moved to have the said order reconsidered, his motion was denied, hence the instant petition.

It is now charged by petitioner that respondent superior judge acted without or in excess of jurisdiction or with grave abuse of discretion when he enjoined the respondent inferior court from proceeding with the criminal case, considering the circumstances that: (1) private respondent's petition for prohibition which led to the issuance of the order in question was not even sufficiently verified as required by Sec. 6, Rule 7 of the Rules of Court, since said respondent had only stated in his verification that "all the allegations therein (the petition) are true and correct of my own knowledge and belief"; (2) petitioner was not joined as a party defendant with the municipal judge in the action for prohibition - in violation of Sec. 5, Rule 65 of the Rules of Court - so that he was not notified of the hearing of the petition for the writ of preliminary injunction and he, therefore, was not given his day in court; (3) the petition for prohibition is, in effect, an appeal from the interlocutory and unappealable order of the municipal court denying petitioner's motion therein to suspend the hearing of its Criminal Case No. 817; and (4) the issuance of the order in question is improper because the institution of the criminal case and the case before the agrarian court, separately and independently of each other, is sanctioned by Section 2, Rule 111 of the Rules of Court, or, in other words, that the CAR Case is not a prejudicial question.

The first three points thus raised by appellant deserve very little consideration. As regards the alleged defect of the verification supporting the petition in the court below, suffice it to say that assuming that the rule on verification, Section 6 of Rule 7 has not been strictly complied with, it has been held anyway that absence of verification is a mere formal, not jurisdictional defect,[1] particularly when the facts alleged are more or less indisputable or borne clearly by the records. Thus:

"First, respondents claim that the petition, not being verified, is fatally defective. We do not think so. It is true that Rule 67, sec. 1 of the Rules of Court, requires that the petition for certiorari be verified, the apparent object thereof being to insure good faith in the averments of the petition. Where, however, the material facts alleged are a matter of record in the court below, consisting in pleadings filed or proceedings taken therein, and the questions raised are mainly of law, a verification as to the truth of said facts is not an absolute necessity and may be waived (42 Am. Jur., sec. 42, p. 177), as this Court has done in this case when we gave due course to the present petition. In fact, many authorities consider the absence of verification a mere formal, not jurisdictional, defect, the absence of which does not of itself justify a court in refusing to allow and act in the case (71 C.J.S., 744-745)."

Anent the intimation of petitioner that he was not given a day in court because he was not made a party defendant with the respondent municipal judge in the case of prohibition filed with the Court of First Instance of Bulacan, in violation of sec. 5, Rule 65, it may not be said that the said rule had been disregarded, for the record shows that petitioner's motion to intervene was granted by the respondent judge and his motion for reconsideration of the order complained of was thereafter considered, albeit it was denied for lack of merit. And as regards the point that the petition in the court below was virtually an appeal from an interlocutory order, all that need be said is that it cannot be disputed that the case filed by petitioner in the court of respondent superior judge was a special civil action of certiorari, precisely the appropriate remedy, inasmuch as the questioned order of the respondent inferior judge denying petitioner's motion for suspension of the criminal proceeding was an interlocutory one and not appealable.

Indeed, the more important question to consider in this case is whether or not the respondent superior judge acted in accordance with law in enjoining the respondent municipal judge from continuing with the hearing of the criminal case until after the CAR case shall have been disposed of. We sustain the injunction, but on a different ground - definitely not on the ground that the determination by the CAR of whether or not the ejectment is justified under any of the circumstances enumerated under Section 36 of the Land Reform Code is a prejudicial question as to the criminal liability of a landowner who disposes his tenant or lessee without prior judicial

authority. This Court would like to make it clear that the language of Sec. 31 of the Land Reform Code which provides pertinently that:

"SEC. 31. Prohibitions to the Agri-cultural Lessor. - It shall be unlawful for the agricultural lessor:

- '(1) To disposes the agri-cultural lessee of his landhold-ing except upon authorization by the Court under Section thirty-six. Should the agricultural lessee be dispossessed of his landholding without authoriza-tion from the Court, the agri-cultural lessor shall be liable for damages suffered by the agricultural lessee in addition to the fine or imprisonment - prescribed in this Code for unauthorized dispossession;
- '(2) To require the agri-cultural lessee to assume, directly or indirectly, the payment of the taxes or part thereof levied by the govern-ment on the landholding;
- '(3) To require the agri-cultural lessee to assume, directly or indirectly, any part of the rent, "canon" or other consideration which the agricultural lessor is under obligation to pay to third persons for the use of the land;
- '(4) To deal with millers or processors without written authorization of the lessee in cases where the crop has to be sold in processed form before payment of the rental; or
- '(5) To discourage, directly or indirectly, the formation, maintenance or growth of unions or organizations of agricultu-ral lessees in his landholding, or to initiate, dominate, as-sist or interfere in the formation or administration of any such union or organization."

and Section 36 thereof which says:

"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 dis-possession 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 les-sor-owner or a member of his immediate family will personally cultivate the landholding or will convert the landhold-ing, 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 equi-valent to five years rental on his landholding in addition to his rights under Sections twen-ty-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 distur-bance compensation the lessee may be entitled to an advanced notice of at least one agricul-tural year before ejectment proceedings are filed against him: Provided, further, That should the landholder not cul-tivate the land himself for three years or fail to substan-tially 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;
- '(2) The agricultural les-see failed to substantially comply with any of the terms and conditions of the contract or any of the provisions of this Code unless his failure is caused by fortuitous event or force majeure;
- '(3) The agricultural les-see planted crops or used the landholding for a purpose other than what had been previously agreed upon;
- '(4) The agricultural les-see failed to adopt proven farm practices as determined under paragraph 3 of Section twenty-nine;
- '(5) The land or other substantial permanent improvement thereon is substantially damaged or destroyed or has

un-reasonably deteriorated through the fault or negligence of the agricultural lessee;

‘(6) The agricultural les-see does not pay the lease ren-tal when it falls due: Provided, That if the non-payment of the rental shall be due to crop failure to the extent of seven-ty-five per centum as a result of a fortuitous event, the non--payment shall not be a ground for dispossession, although the obligation to pay the rental due that particular crop is not thereby extinguished; or

‘(7) The lessee employed a sub-lessee on his landholdings in violation of the terms of paragraph 2 of Section twenty-seven.”

is definite and unmistakable as to the spirit, intent and purpose of the lawmakers that under no circumstances may a tenant or lessee be deprived or dispossessed of his land-holding without a prior final and executory judgment of the Court of Agrarian Relations rendered after proper hear-ing where, understandably, the tenant or lessee has been given an opportunity to be heard. In other words, once a landowner or lessor dispossesses his tenant or lessee of his landholding without prior permission of the CAR and a criminal case is filed for violation of Section 31 in re-lation to Section 167 of the Land Reform Code, the criminal case may proceed to judgment irrespective of whether or not another case is filed with the CAR whether by the landowner or lessor or by the tenant or lessee. Any sub-sequent or independent finding of the CAR that the eject-ment may be authorized under Section 36 cannot cure the criminal liability that already attaches upon the actual dispossession without previous court authority.

In the case at bar, however, the situation of respondent Vasallo stands on a different footing. Here there was authority given by the CAR upon petition of said respondent in CAR Case No. 909-Bul. '63, as stated earlier above. Precisely, this is the circumstance that was seemingly overlooked in the proceedings in the court below. Said authority, of course, was qualified in the sense that it would take effect only upon violation of the petitioner of the terms and conditions contained in the decision. The issue to be decided in this case, therefore, is not whether or not there was permis-sion of the CAR but whether or not such authority could already be taken advantage of or utilized by Vasallo upon the failure of the petitioner to comply with the terms and conditions of the decision granting said au-thority as alleged by him.

In this connection, it may be mentioned that the compromise judgment aforequoted expressly states that the parties agreed "that any violation of (sic) the re-spondent of the above agreement, will entitle the petitioner for an immediate execution of the judgment to eject the respondent." Still the question would be what the parties meant in their stipulation with the phrase "will entitle the petitioner for (sic) an immediate exe-cution". Had the agreement stipulated that the petitioner would be entitled "to secure a writ of execution" or "to seek immediate execution", it would have been clear enough that even on the assumption that petitioner might have failed to comply with his obligations under the de-cision, the landowner or lessor could not dispossess pe-titioner without first securing a writ of execution. In any event, it is not for this Court to pass on these questions in this case. All that We hold now is that until the CAR which rendered the decision on the amicable compromise has determined whether or not the authority granted by it to respondent to dispossess petitioner has been properly exercised by respondent, it is but logical and proper that the criminal case be held in abeyance. We reiterate that this is not a case where the landowner has absolutely no CAR authority or permission to eject his tenant or lessee; rather, the question here is whether or not the authority given has been properly exercised. Whether or not respondent can be held criminally liable under the circumstances can be fairly decided only after it is known whether or not he has acted in accordance with the authority given to him by the CAR in Case No. 909-Bul. '63. In the result, the respondent superior judge acted properly in enjoining the criminal proceedings before the respondent municipal judge.

ACCORDINGLY, the herein petition is denied. No costs.

Reyes, J.B.L., Acting C.J., Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Villamor, and Makasiar, JJ., concur.

[1] The Phil. Bank of Commerce vs. Macadaeg, et al., L--141174, Oct. 31, 1960; See also, I Francisco, The Re-vised Rules of Court, p. 374, citing 71 C.J.S. 744-745.

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