

PRIMITIVO NEPOMUCENO, PETITIONER, VS. BENJAMIN SALAZAR, RESPONDENT.*G.R. No. L-37165. May 15, 1989*

Ponente: FELICIANO, J.

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There are before us two (2) Petitions for Review of the same Court of Appeals' Resolution dated 17 May 1973, which Resolution dismissed petitioners' appeals from an Order of the Court of Agrarian Relations ("CAR") dated 15 January 1972, issued in CAR Cases Nos. 2557 and 2558.

On 14 July 1970, Emerenciana Nepomuceno and Primitivo Nepomuceno filed with the CAR of Malolos, Bulacan, CAR Cases Nos. 2557 and 2558, respectively, seeking the ejectment of respondent Benjamin Salazar from lands owned by petitioners and situated in Barrio Lolomboy, Bocaue, Bulacan. Petitioners' lands had theretofore been devoted to the growing of rice, except that during the dry season, portions thereof were planted to water-melons. Respondent Salazar was the agricultural lessee or tenant of the lands in question. The record is silent on the precise area of the lands involved but the modest extent of such lands is clearly indicated by the agreed rental amounting to sixteen-and-a-half (16-1/2) cavans of palay per calendar year paid by Salazar to each of the petitioners. In their complaints, petitioners stated that they wanted to convert their agricultural lands to commercial or non-agricultural uses; that they wanted to establish poultry and hog farming projects in said land; and that the rest of their land would be cultivated by petitioners personally.

On 11 October 1971, after pre-trial and after commencement of trial on the merits, respondent Salazar (defendant therein) filed a Motion to Dismiss both complaints upon the ground that Section 36 of Republic Act No. 3844 had been amended by Section 7 of Republic Act No. 6389, by deleting personal cultivation by the landowner as a ground for permissible ejectment of a tenant. Respondent argued that Republic Act No. 6389, which took effect on 10 September 1971, should be given retroactive effect as a piece of remedial legislation beneficial to agricultural tenants like himself. The CAR issued an Order dated 16 November 1971 holding in abeyance the resolution of the Motion to Dismiss until after the parties shall have completed their respective presentation of evidence on the merits.

Subsequently, however, on 15 January 1972, and before completion of presentation by the parties of their respective cases, the CAR issued a lengthy Order, which after extensive discussion including reproduction of excerpts from the debates in the Senate preceding the enactment of Republic Act No. 6389, granted the Motion to Dismiss partially, that is, with respect to personal cultivation by the landowner as a ground for ejectment of a tenant. At the same time, that Order partially denied the Motion to Dismiss with respect to the other ground adduced by petitioners, that is, conversion of the lots into land devoted to commercial and non-agricultural purposes, such as poultry and hog farming, holding that ejectment of a tenant remained legally permissible on such other ground. The dispositive portion of this Order read as follows:

"WHEREFORE, defendant's urgent motion to dismiss dated October 11, 1971 is partly granted with respect to

the cause of action alleged in the complaints in these cases for the ejectment of the defendant from the landholdings in question on the ground of personal cultivation, and as prayed for, the complaints with respect to said cause of action are hereby dismissed. The same motion to dismiss hereby [is] partly denied with respect to the cause of action for the ejectment of the defendant from the lands in question on the ground of conversion thereof into commercial and other useful non-agricultural purposes.

Let the records of these cases be returned to Commissioner Onesimo L. Espejo for further proceedings.

SO ORDERED."[1]

Petitioners both appealed to the Court of Appeals. On 17 May 1973, the Court of Appeals rendered a Resolution dismissing petitioners' appeals upon the ground that the 15 January 1972 order of the Agrarian Court was an interlocutory order and as such could not be the subject of an appeal. The Resolution of the Court of Appeals stated in part:

"It should be observed that the order subject of the present appeal partly grants the motion to dismiss the complaints on the cause of action for ejectment based on personal cultivation and partly denied the same motion to dismiss with respect to the cause of action based on conversion of the land into commercial or other useful non-agricultural purposes. Evidently, therefore the said order does not finally dispose of the pending cases so that nothing more can be done with them in the agrarian court. Indeed, said order expressly orders the return of the records of the case to the hearing commissioner for further proceedings, so that trial may continue on the other cause of action.

'1. The forefront question is whether the disputed orders are final and appealable. Private respondents Santos Dy-Kia seeks to strike down the appeal because the orders are interlocutory. And citing Section 1 of Rule 43 of the Rules of Court, he puts forth the claim that only final orders of the Agrarian court are appealable. He is correct.

2. The orders of the lower court are aimed at continuing the proceedings before it. Hearing of the case on the merits is not yet finished. Final judgment is yet to be rendered. A rule long standing and frequently cited is that orders which do not finally dispose of the pending case so that nothing more can be done with it in the trial court are interlocutory. An issue relating thereto must wait until the trial court writes its final determination. It is only then that appeal is proper.' (Anduina vs. Dy Kia, 29 SCRA 198, 204)

In view of the foregoing consideration, therefore, the appeal in these two cases should be dismissed."[2]
(Underscoring supplied)

In a Motion for Reconsideration, petitioners urged that the Order of the CAR was not interlocutory considering that one of the substantive grounds or causes of action pleaded by petitioners for the ejectment of respondent Salazar would definitely no longer be considered by the CAR in rendering its decision on the merits. The Motion for Reconsideration was unsuccessful.

In the instant Petition for Review, petitioners assail the correctness of the Court of Appeals holding that the CAR Order of 15 January 1972 was merely an interlocutory order which could not, therefore, be the subject of an appeal.

In *People vs. Hewald, et al*, [3] the Court characterized an interlocutory order in the following terms:

"An order is interlocutory when it does not terminate or finally dispose of the case, because it leaves something to be done by the court before the case is finally decided on the merits. But, an order is final when it disposes of the case, decides the same on the merits and leaves nothing to be done therefore, except the execution of the terms of the order of judgment (Moran, Rules of Court, Vol. I, 1957 ed., pp. 638-39)."

Again, in *Bairan vs. Tan Siu Lay*,^[4] the Court held, through Mr. Justice Dizon:

"It is settled that a court order is final in character if it puts an end to the particular matter resolved, leaving thereafter no substantial proceeding to be had in connection therewith except its execution; and, contrary wise, that a given court order is merely of an interlocutory character if it is provisional and leaves substantial proceeding to be had in connection with its subject in the court by whom it was issued.

It will be noted that in connection with the order of January 4, 1961, the court decided, over petitioner's objection, that the latter must file a surety bond as prayed by his adversary. Thus, upon the question of whether or not petitioner should file a bond, there was nothing left to be done except to have the order aforesaid carried out. It is clear, therefore, that said order is final in character and, as such, is appealable within the period of appeal provided by law."^[5]

Tested by the above standard, the CAR's Order of 15 January 1972 may be seen to be a strange creation indeed, neither fish nor fowl, as it were, but bearing the characteristics of both an interlocutory and a final order. That order may be regarded as an interlocutory order, just as the Court of Appeals did so regard it, on the basis that further proceedings in the main case were clearly contemplated. At the same time, however, those further proceedings would clearly relate only to one of the two (2) substantive grounds or causes of action raised by the petitioners in their complaints before the Agrarian Court. The CAR purported to have disposed finally of the question of availability under the law of the ground of personal cultivation by a landowner of his own land. Thus, the CAR in effect held that it would no longer receive nor consider any evidence and argument concerning the ground of personal cultivation; insofar as that particular substantive ground was concerned, there was nothing more that petitioners could have done.

Clearly, the Agrarian Court here committed the serious error of rendering a piecemeal judgment. Instead of partially granting and partially denying the respondent's Motion to Dismiss, the Agrarian Court should have held in abeyance the resolution of that Motion to Dismiss, treated the same as a supplemental answer, continued with trial until completion thereof on an unrestricted basis, and dealt with both substantive grounds alleged by petitioners in its decision on the merits. The respondent Court of Appeals too erred in failing to modify and set aside that part of the Order of the Agrarian Court which purported to dismiss the complaint to the extent it was based upon the claim of personal cultivation by the landowner.

It remains to point out that the Agrarian Court was also substantively in reversible error when it held that personal cultivation by the landowner was no longer available as a ground for ejectment of an agricultural lessee or tenant in the circumstances of this case.

Petitioners' complaints were filed, as already noted, on 14 July 1970; Republic Act No. 6389 was approved by the Congress on 10 September 1971. The effectivity clause, however, of Republic Act No. 6389 did not invest Section 7 thereof with retroactive effect. It follows that the general rule established in Article 4 of the Civil Code that "laws shall have no retroactive effect, unless the contrary is provided," must be held applicable.

The precise issue here at stake has already been resolved by the Court in *Calderon, et al. vs. Dela Cruz*,^[6] in the following terms:

"We are not unaware that on 10 September 1971 R.A. 6389 took effect and abrogated the right of the landowners to dispossess the tenants or agricultural lessees on the ground of personal cultivation. We have categorically ruled in *Nilo v. Court of Appeals* and *Castro v. Castro* [128 SCRA 519 (1984)] and reiterated in *Diga v. Adriano* [133 SCRA 421 (1984)] that said law can not be given retroactive effect in the absence of a statutory provision for retroactivity or a legal implication of law to that effect. To hold that landowners can no longer effect their claims because of R.A. No. 6389 would deprive them of their right to enjoy their property which they had already asserted before the statute was passed. Precisely, the lawmaking body in providing

personal cultivation as a ground to eject tenants intended to encourage and attract the small landowners to go to their respective province and till their lands. Furthermore, this rule would be till thwarting the policy of encouraging self-reliant and independent small farmers if lessor-lessee relations on tiny parcels of land, as in this case, are perpetuated even when the owners can and desire to cultivate the land themselves."[7]

It is thus clear that both grounds for ejectment of respondent tenant or lessee raised by petitioners, i.e., personal cultivation by the landowner and conversion of the land to commercial and non-agricultural uses, remained available to petitioners at the time of the filing of their complaints. Petitioners were entitled to prove that respondent lessee or tenant could be ejected from petitioners' land on either or both grounds under the provisions of Republic Act No. 6389. We should, however, add the caveat that our disposition of this case is without prejudice to the possible application of subsequently enacted laws and regulations, if any, bearing upon this matter.

WHEREFORE, the Resolution of the Court of Appeals of 17 May 1973 is hereby SET ASIDE; the Order dated 15 January 1972 of the then Court of Agrarian Relations is hereby SET ASIDE to the extent that such Order purported to grant partially respondent's Motion to Dismiss; and these cases are hereby REMANDED to the appropriate Regional Trial Court for further proceedings consistent with this Decision.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, pp. 15-16, G.R. No. L-37165; underscoring supplied.

[2] Rollo, pp. 20-21, G.R. No. 37165.

[3] 105 Phil. 1297 (1959).

[4] 18 SCRA 1235 (1966).

[5] 18 SCRA at 1239, underscoring supplied. See also *Dais vs. Garduño*, et al., 49 Phil. 165 (1926).

[6] 138 SCRA 173 (1985).

[7] 138 SCRA at 178; underscoring supplied.

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