

BALIKATAN SA KAUNLARAN NG TIBIG MULTI PURPOSE COOPERATIVE INC., GREGORIA TERCERO, PETITIONER, VS. SECRETARY OF THE DEPARTMENT OF AGRARIAN REFORM, CAPITOL CITIFARMS INC. AND AYAL...

Ponente: BARRIOS, J.

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BARRIOS, J.:

This is a petition for mandamus filed by Balikatan sa Kaunlaran ng Tibig Multi Purpose Cooperative Inc. (or Balikatan) represented by its president, Gregoria Tercero, seeking to compel the Secretary of Agrarian Reform to allow Balikatan to intervene in Administrative Case No. A-9999-04-CV 203-00 entitled “Petition for Revocation of Conversion Order No. 4-97-1029-051, Dated October 31, 1997 issued to Capitol Citifarms, Inc.”

On October 31, 1997, the respondent Secretary of the Department of Agrarian Reform who was then Ernesto Garilao, issued an Order granting in favor of the respondent Capitol CitiFarms, Inc. (or Capitol Farms) the conversion of a 221.0348 hectares parcel of land situated at Tibig (before Brgy. Munting Ilog), Silang, Cavite, and covered by TCT No. 128672 .

Lamberto Javier et al. (or the farmers-petitioners) filed before the Department of Agrarian Reform (or DAR) a petition for the revocation of the grant of the conversion issued to Capitol Farms alleging that it violated the Conversion Order because instead of developing the property within 5 years from the issuance of the grant, it sold the property to the respondent Ayala Land Inc. (or Ayala Land). It was also averred that at the time of the sale the property was still an agricultural land, and selling this to Ayala Land violated the provisions of Republic Act No. 6675 and DAR AO No. 1 Series of 1989 (p. 46, rollo). As the incumbent possessor of the property, Ayala Land filed its Comment and admitted that indeed Capitol Farms sold the property to it.

On December 18, 2000, the former DAR Secretary Horacio Morales issued an Order revoking DAR Conversion Order No. 4-97-102905. The dispositive portion of this reads:

WHEREFORE, in view of the foregoing premises, DAR Conversion Order No. 4-97-1029051, dated October 31, 1997 issued in favor of Capitol Citifarms, Inc. covering 221.3048 hectares covered by TCT No. T-128672, is hereby REVOKED. The Municipal Agrarian reform Officer of Silang, Cavite is hereby ordered to subject the said landholding under compulsory coverage and distribute the same to qualified beneficiaries, in accordance with existing laws and regulations. (p. 60, rollo).

Ayala Land filed a motion for its reconsideration which was opposed by the farmers-petitioners. Pending the resolution of this motion, Balikatan filed a Motion for Leave to Intervene (Annex “F”, pp. 63-65, rollo) attaching therewith the Petition for Intervention. On June 28, 2002, the then DAR Secretary Hernani Braganza issued an Order denying the petition for intervention of Balikatan (p. 27, rollo). The motion for its reconsideration was denied in the Order dated September 23, 2002 (p. 29, rollo).

Ruling on the motion for reconsideration filed by Ayala Land, DAR Secretary Hernani Braganza granted this in the Order dated September 26, 2002 disposing that:

WHEREFORE, premises considered, Order is hereby issued GRANTING the Motion for Reconsideration and REVERSING the REVOCATION of Conversion Order No. 4-97-1029-051 (p. 212, rollo)

A certain Atty. Henry So claiming to represent some of the farmers-petitioners, filed on November 4, 2002 a motion for reconsideration of this Order with prayer for the Issuance of a Cease and Desist Order.

On December 16, 2002, Balikatan filed this petition assailing the twin Orders issued by the DAR dated June 28, 2002 and September 23, 2002. Balikatan ascribes to the DAR the lone error that:

RESPONDENT HON. HERNANI BRAGANZA OF THE DEPARTMENT OF AGRARIAN REFORM COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED ORDER DATED JUNE 28, 2002 AND RESOLUTION DATED SEPTEMBER 23, 2002, CONSIDERING THAT HEREIN PETITIONER HAS A LEGAL AND MATERIAL INTEREST IN THE MATTER IN LITIGATION, IS NOT ESTOPPED, AND ITS RIGHT TO INTERVENE HAS NOT PRESCRIBED. (p. 9, rollo)

Balikatan stated that their group is comprised of a number of legitimate farmers and tillers of the subject property, and argued that it should have been allowed to intervene because its members have substantial rights to be protected and that it has clear and material interest in the matter in controversy. It ratiocinated too that if the revocation of the conversion is reconsidered, it will be deprived of its opportunity to continue tilling and cultivating the property. Its interests in the present controversy is not merely consequential but also actual and that this cannot be protected in a separate proceedings. Capitol Farms failed to pay and effect complete payment of disturbance compensation to its members, and the supposed “Kasunduaan” and the “Katunayan ng Pagbabayad” executed between its members and Capitol Farms did not reflect the true intent of their agreement. Its members were only swayed into affixing their signatures on certain documents the contents of which were not made known to them and they were made to believe that they will be paid additional compensation immediately before or after the conversion.

The petition lacks merit.

The DAR has since resolved the Motion for Reconsideration filed by Atty. Henry So in the Order dated August 13, 2003, the fallo of which reads:

WHEREFORE, premises considered, Order is hereby issued DENYING both the Motion for Reconsideration dated 4 November 2002 and the Urgent Motion for Issuance of Cease and Desist Order dated 7 May 2003, filed by Atty. Henry So.

FURTHERMORE, the Bureau of Agrarian Legal Assistance is hereby DIRECTED to issue a Certificate of Finality of the 26 September 2002 Order. ACCORDINGLY, this case is deemed close (sic) as far as this Office is concern (sic). (p. 217, rollo)

With that DAR ruling, intervention is no longer allowable. Case law has it that intervention is merely collateral or accessory or ancillary to the principal action, and not an independent proceeding; x x x. Where the main action ceases to exist, there is no pending proceedings wherein the intervention may be based (*Looyuko vs. Court of Appeals*, 361 SCRA 150, 151).

And even if the decision of the DAR has not become final, this petition will still fail. The interest which entitles a person to intervene in a suit between other parties must be in the matter in litigation and of such direct and immediate character that the intervenor will either gain or lose by direct legal operation and effect of the judgment (*Nordic Asia Limited vs. Court of Appeals*, 403 SCRA 390). From the circumstances of this case, Balikatan has not established that it has such legal interest in the cause of action. Notable is the discussion contained in the

assailed Order issued by the DAR:

x x x herein intervenors are claiming a mere contingent or consequential interest in the subject case and one which is not actual and material, direct and immediate. At most, what intervenors are claiming is the right to be identified as beneficiaries under the CARPA in case the Conversion Order is revoked, or the right to the alleged complete payment of disturbance compensation. These interest are consequential only to the matter in litigation, i.e., revocation of subject Conversion Order.

Even assuming arguendo that intervenors have a legal interest in the case, they cannot now pursue this right because their action has prescribed.

The record shows that Conversion Order No. 4-971029-051, the revocation of which is the subject of ALI's Motion for Reconsideration, was issued on 31 October 1997. The records further shows that the motion to intervene was filed on 14 January 2002.

Section 34 of DAR Administrative Order No. 01, Series of 1999 (A.O.1), which took effect on April 10, 1999 provides that:

x x x

Clearly, the petition-in-intervention was filed beyond the one (1) year period laid down in A.O.1. even if the one (1) year period were to be reckoned from the date of effectivity of A.O.1, movants-petitioners should have filed their Petition for Revocation of Conversion Order No. 4-97-1029-051 on 20 April 2000. (pp. 24-25, rollo)

It may be added too that four (4) of the farmers-petitioners, namely: Gregoria Tercero, Carlos de Jesus, Darmacio Cosma and Rogelio Bilog, in a letter dated October 5, 2001 written in the vernacular to DAR Secretary Hernani Braganza, declared support for the respondents Capitol Farms and Ayala Land. They likewise claimed that Capitol Farms did not deceive anybody, they knew of the sale between Capitol Farms and Ayala Land and that they have voluntarily accepted payment of disturbance compensation.

As has been said, mandamus applies as a remedy only where petitioner's right is founded clearly in law and not when it is doubtful. Legal rights maybe enforced by mandamus only if those rights are well-defined, clear and certain (Commission on Elections vs. Quijano-Padilla, 389 SCRA 353, 354). On the other hand, Balikatan failed to establish that it has a direct interest in the cause of action as pleaded.

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.
SO ORDERED.

Guariña, III, and Tagle, JJ., concur.

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