

**EMILIO PAULO, PETITIONER, VS. THE HON. COURT OF APPEALS,  
THE COURT OF AGRARIAN RELATIONS, 15TH REGIONAL DISTRICT,  
BRANCH I, DAVAO CITY, THE PROVINCIAL SHERIFF OF TAGUM,  
DAVAO DE...***G.R. No. L-33845. December 18, 1973*

Ponente: ANTONIO, J.

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Original action for certiorari and prohibition with preliminary injunction to set aside the order dated February 17, 1971 of respondent Court of Agrarian Relations, Branch I, Davao City, in CAR Case No. 1349-DN-1970, directing the issuance of a writ of execution of its decision dated January 6, 1971; the writ of execution dated March 6, 1971, issued by the Deputy Clerk of Court of said court; the resolution of respondent Court of Appeals dated June 4, 1971 denying petitioner's urgent motion for the issuance of an order to restrain the execution and its resolution of July 6, 1971, denying petitioner's motion for reconsideration; and for the issuance of a restraining order on the ground that the aforesaid order, writ of execution and resolution were issued without or in excess of jurisdiction and with grave abuse of discretion amounting to lack of jurisdiction.

On February 23, 1970, the private respondents, the spouses Carlos D. Pastoriza and Rosalinda Domingo-Pastoriza filed a complaint for ejectment, delivery of share of produce and damages against petitioner Emilio Paulo on Lot No. 55, a portion of Lot No. 4710, Cad. 276, situated at Camiling, Carmen, Davao del Norte. In their complaint, private respondents alleged that Rosalinda while still single was a holder of Homestead Application No. 20-14788 issued by the Bureau of Lands covering said Lot No. 55; that the land she applied for was a public land, declared for taxation purposes and paid the real property tax therefor; that Lino Ulip since 1962 worked on the land and was their overseer; that in 1967, petitioner Emilio Paulo was allowed by them through their overseer to cultivate the land as tenant; that as tenant, petitioner in 1967 and 1968 planted and produced palay in the landholding giving their corresponding shares of the land through Ulip; that since 1969 the petitioner refused to deliver to them their corresponding palay shares in spite of repeated demands and without justifiable reasons. Private respondents prayed that petitioner be ordered ejected from the landholding, and the petitioner be required to deliver to them their shares in the produce of the land during the crop year of 1969. (Annex A)

In his answer dated April 10, 1970, petitioner denied the material allegations in the complaint and alleged that he entered the land in question as a settler in his own right not as a tenant of anyone. As counterclaim he asked that he be paid the sum of P500 as moral damages and P500 as actual expenses and the costs of the proceedings. (Annex B)

After hearing the case on the merits, the respondent Court of Agrarian Relations rendered a decision dated January 6, 1971, the dispositive portion of which reads as follows:

"WHEREFORE, IN VIEW OF THE FOREGOING CONSIDERATION, judgment is hereby rendered:

(1)

Declaring that plaintiffs Rosalinda Domingo Pastoriza and Carlos Pastoriza land-holders of the land in question, as legal pos-sessors thereof in contemplation of the law;

(2)

Declaring that an agricultural tenancy relationship exists between the plaintiffs and defendant Emilio Paulo;

(3)

Ordering the ejectment of defend-ant Emilio Paulo from the 2-hectare land-holding identified as Lot No. 55, which is part of Lot No. 4710, Cad. 276 located at New Camiling, Carmen, Davao del Norte, for failure to deliver the landholders' share in accordance with Sec. 50, par. (c) R.A. 199, as amended.

All other claims of plaintiffs are here by DENIED for insufficiency of evidence.

The Deputy Clerk of this Court is hereby directed to deliver to plaintiffs the deposited amount of P32.00, in his possession under receipt.

No pronouncement as to costs." (Annex C)

On January 13, 1971, petitioner perfected his appeal from said decision.

During the pendency of the appeal, private respondents filed a motion for immediate execution dated January 18, 1971 (Annex D), which was objected to by petitioner in his opposition dated January 19, 1971 (Annex E). Private res-pondents made their reply to petitioner's opposition on January 21, 1971 (Annex F).

On February 17, 1971, respondent Court of Agrarian Relations issued an order (Annex G) directing the Deputy Clerk of Court to issue a writ of execution, which was correspond-ingly issued by the Deputy Clerk of Court (Annex H).

Petitioner filed with the respondent Court of Agrarian Relations an urgent motion dated March 15, 1971 to set aside order of execution and/or to dissolve the writ of execution (Annex I), stating, among others, that the case is pending appeal before the Court of Appeals and, therefore, the de-cision appealed from is not yet final and executory; that, although decisions of the Courts of Agrarian Relations are executory pending appeal by virtue of Section 5 of Republic Act 5434, yet Section 36 of Republic Act 3844 provides "that 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 decision that is final and executory"; that said Section 36 of Republic Act 3844 has not been expressly repealed by Republic Act 5434; that Republic Act 5434 is a procedural law while Republic Act 3844 is a substantive law and although these two laws are in conflict, the latter should prevail over the former. Petitioner therefore prayed that the order of February 17, 1971 be set aside and the writ of execution of the decision be annulled.

On April 3, 1971, private respondents filed an opposi-tion to the aforesaid petitioner's urgent motion alleging that: (1) the present action is filed out of time as a period of more than 15 days had already elapsed after re-ceipt and said order became final; (2) the appeal has al-ready been approved and the respondent CAR has no more jurisdiction over the case and the records had already been forwarded to the Court of Appeals and docketed as CA-G.R. No. 47385-R; (3) the writ of execution had already been issued and forwarded to the provincial sheriff

for implementation; (4) in accordance with the provisions of Republic Act 5434, the respondent CAR shall determine whether execution will issue depending upon the circumstances of the case; and (5) in accordance with the provisions of Republic Act No. 5434, the writ of execution was properly issued. (Annex J).

On April 16, 1971, respondent CAR issued an order denying petitioner's urgent motion aforementioned. (Annex K)

Prior thereto or on March 29, 1971, petitioner filed with the Court of Appeals an urgent motion for the issuance of a restraining order (Annex L), followed by another urgent motion on April 30, 1971, reiterating his request for the issuance of a restraining order and/or nullification of the Agrarian Court's writ of execution. (Annex M)

Petitioner's urgent motion of March 29, 1971 was denied by the Court of Appeals in its resolution of June 4, 1971 (Annex N), and a motion for reconsideration of petitioner dated June 29, 1971, was likewise denied by the respondent Court of Appeals on July 6, 1971. (Annex P)

Hence, the present petition, which raises the question: Whether or not the respondent Court of Agrarian Relations had the authority to execute an appealed judgment of ejectment of the tenant, considering that said judgment is not yet final and executory.

We had previously ruled in *Quilantang vs. Court of Appeals* (L-34212, December 13, 1972, 48 SCRA 294, 298), that section 36 of Republic Act No. 3844, created in favor of the agricultural lessee a substantive right to "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" and that Republic Act No. 5434, on the other hand, "as its title indicates, is purely procedural in nature, in that it purports to do no more than prescribe a uniform procedure for appeals from the bodies and entities enumerated therein. It is easily comprehensible, then, considering the adjective nature of R.A. 5434, that section 12 of R.A. 1267, as amended, was explicitly and precisely referred to as one of the procedural provisions to be superseded by R.A. 5434." In the evolution of legislative policy declaring share tenancy as contrary to public policy and granting to tenants greater security and added interests of a semi-proprietary nature in their landholdings, We declared therein that it is, therefore, "not a mere accident in the lawmaking process that while under R.A. 1267 a tenant's authority to stay in his landholding until the judgment ousting him became final and executory, merely formed part of the ordinary rules of procedure in the disposition of agrarian cases, that same authority to hold over until final judgment was withdrawn by R.A. 3844 from the realm of procedural law and transformed into a transcendental substantive right. Within the context of the environmental legislative intention directly pertinent to the issue at bar, this Court cannot construe R.A. 5434 an adjective law, in a manner that will upturn one of the fundamental substantive aspects of R.A. 3844, although the latter, in terms of endresults, would seemingly operate to constrict the scope of the former." We reaffirmed this ruling in *Tiongson vs. Court of Appeals* (L-35059) decided only last February 27, 1973 (49 SCRA 429) where We again stressed that under the Land Reform Code the tenants are entitled to the enjoyment and possession of their landholdings except when their dispossession has been authorized by the Court in a judgment that is final and executory.

Needless to say, land reform was an integrated plan designed to introduce basic changes in the country's agricultural system to solve the problems of low productivity and poverty of the tenants. It was enacted by Congress to give substance to the social and economic propositions embodied in the old constitution which, in the words of Justice Fernando, "are intended to bring about the needed social and economic equilibrium between component elements of society through the application of what may be termed as the *justitia communis* advocated by Grotius and Leibnitz many years ago." To be sure, the feudalistic structure of Philippine society – a carryover from our colonial past – has long been recognized as the root of the smoldering unrest in rural areas. Although

land reform was in the statute books since 1963 when Republic Act No. 3844 abolishing share tenancy was enacted, which was later amended by Republic Act No. 6389 in 1971, it was only on October 21, 1972 when the President of the Philippines decreed "the emancipation of the tenants from the bondage of the soil, transferring to them the ownership of the land they till and providing the instruments and mechanisms therefor" (Presidential Decree No. 27), that significant moves were made in the implementation of the law. Land Reform, which is now transforming the rural existence of the farmers, has become more imperative in view of the provisions of the New Constitution. Thus Section 6, Article II thereof directs that "The State shall promote social justice to insure the dignity, welfare and security of all the people." and for the attainment of this end, directs that "the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse ownership and profits." Section 5, Article XVII of the Transitory Provisions provides that the "implementation of declared agrarian reforms" shall be given priority. There is no question that the massive overhaul of the system of land ownership by the transfer to the tenants of the ownership of the land they till and the grant to them of the instruments and mechanisms to increase their land's productivity will decisively improve the people's livelihood and promote political and social stability.

In view of the aforecited rulings in *Tiongson vs. Court of Appeals*, supra, and *Quilantang, et al. vs. Court of Appeals*, supra, petitioner Emilio Paulo is entitled under Section 36 of the Agricultural Land Reform Code. (Republic Act No. 3844) to "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." Inasmuch as the decision, dated January 6, 1971, of respondent Court of Agrarian Relations has been appealed to respondent Court of Appeals (CA-G.R. No. 43348-R), the same cannot be considered final and executory, and, consequently, the order of February 17, 1971 of respondent Agrarian Court directing the issuance of a writ of execution as well as the execution of the said decision by the Provincial Sheriff of Tagum, Davao del Norte, are without any legal basis.

WHEREFORE, the writs of certiorari and prohibition prayed for are granted and the order, dated February 17, 1971, of respondent Court of Agrarian Relations, as well as the writ of execution, dated March 6, 1971, issued by its Deputy Clerk of Court, and the resolutions, dated June 4 and July 6, 1971, of respondent Court of Appeals, are nullified, set aside and declared without force and effect, and the private respondents are ordered to reinstate petitioner as tenant of the land in question, and respect his possession therein until the appealed case is finally decided.

Zaldivar, (Chairman), Fernando, Barredo, Fernandez, and Aquino, JJ., concur.

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