

**FRANCISCO BALIGWAT, PETITIONER, VS. HON. COURT OF APPEALS
AND ALBINO ESTAVAS, RESPONDENTS.***G.R. No. L-44678. April 08, 1986*

Ponente: PATAJO, J.

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In this petition for review of the decision of the then Court of Appeals dated July 20, 1976, petitioner, the tenant of private respondent over 1 ½ hectares land devoted exclusively to coconut trees, seeks a ruling from this Court that personal cultivation by the land-owner, one of the grounds for the dispossession of a tenant under Section 50 of Republic Act 1199, otherwise known as the Agricultural Tenancy Act of the Philippines, had been repealed by Section 7 of Republic Act 6389, and that, therefore, he could not be ejected from the landholding in question on the alleged ground that the land-owner wanted to cultivate the land himself personally. The decision of the Court of Appeals affirmed the decision of the Court of Agrarian Reforms which denied the motion to dismiss filed by petitioner of the complaint to eject him from the landholding in question, said Court holding that Section 7 of Republic Act 6389 amending Section 36 of the Code of Agrarian Reforms of the Philippines, Republic Act 3844 deleting personal cultivation by the lessor-owner as ground for dispossessing the tenant-lessee does not apply to coconut lands.

The undisputed facts of this case is stated by the Court of Appeals in its decision subject of the present petition for review as follows:

"Defendant Francisco Baligwat is the tenant of plaintiff Albino Estavas over one and one-half hectares of his coconut land in Pualas, Tubod, Lanao del Norte. Estavas wanted to eject Baligwat because he wanted to cultivate the land personally, so he notified the defendant of his desire to personally cultivate the land one year before he filed this case on April 4, 1972 by sending a letter (Exhibit 'B') written on February 7, 1971, addressed to the defendant at Pualas, Tubod, Lanao del Norte. He mailed that letter by ordinary mail and the de-fendant received it through the Barrio Captain. He also complied with the requirements of law to inform the Court regarding his desire to personally cultivate the land as shown by a copy of the notice he filed in Court, (Exhibit 'C') received on February 15, 1971 (Ex-hibit 'C-1').

"After one year, he sent another letter to the defendant reminding him that after February, 1972, the latter was to vacate the premises (Exhibit 'D'). Because the defendant did not vacate the premises, plaintiff filed his petition in this case on April 4, 1972 (Exhibit 'E').

"Estavas wanted to personally cultivate the land because he had no job and he has had experience as farmer of the coconut land of his father. The entire area of the coconut land is 26 hectares. The tenanted area of the said land is one hectare and a half. Plaintiff has four children all of majority age, with children of their own. He wants to cultivate personally the area of one and a half hectares because the rest of the 26 hectares are cultivated by his children who are all farmers, including the only one of them who is employed and who visits the place every month. Four hectares of the land were acquired by his wife and the other portions were acquired by him and his wife. He has a house on the land in question. Three of his children have their own houses on the portions of land they are occupying and cultivating."

We are in full agreement with the holding of the Court of Appeals upholding the Court a quo that insofar as coconut lands are concerned, personal cultivation by the owner-lessor, a ground for dispossession of the tenant-lessee under Section 50 of Republic Act 1199, is still a valid ground for dispossession of a tenant. This is so because Section 35 of Republic Act 3844 expressly provides that with respect to lands principally planted to citrus, coconuts, cacao, durian and other similar permanent trees "the consideration, as well as the tenancy system prevailing, shall be governed by the provisions of Republic Act 1199, as amended," Section 35 reads as follows:

"SEC. 35. Exemption from Leasehold of Other Kinds of Lands -- Notwithstanding the provisions of the preceding Sections, in the case of fishponds, saltbeds, and lands principally planted to citrus, coconuts, cacao, coffee, durian, and other similar permanent trees at the time of the approval of this Code, the consideration, as well as the tenancy system prevailing, shall be governed by the provisions of Republic Act Numbered Eleven hundred and ninety-nine, as amended."

The provision that insofar as coconuts and other lands principally planted to coconut and other permanent trees shall continue to be governed by the provisions of Republic Act 1199 of Section 35 quoted above is further reinforced by Section 1 of Presidential Decree No. 1425 which reads as follows:

"Section 1. The agricultural leasehold system shall continue to govern the relationship between the landowner, landholder, civil law lessee, legal possessor, usufructuary or any person acting for and in his behalf, and the tenant-farmer in rice and/or corn lands not covered by the land transfer program under Presidential Decree No. 27 as well as in those tenanted lands devoted to other crops with the exceptions and/or qualifications provided for in Sections 4 and 35 of the Code of Agrarian Reforms." (underscoring supplied)

Petitioner invokes the decision of the Court of Appeals in *Arambulo vs. Conicon*, CA-G.R. No. 46727-R dated January 6, 1972 which was affirmed by this Court in a minute resolution dated March 14, 1972, G.R. No. L-34816 in support of his contention that personal cultivation as a ground for dispossessing the tenant had been repealed by Republic Act 6383. Aside from the fact that said case refers to an agricultural riceland, this Court in *Nilo vs. Court of Appeals*, 128 SCRA 519, 524, a decision by this Court en banc has in effect reversed the decision in the *Arambulo* case when contrary to the ruling in said *Arambulo* case, it held that Republic Act 6389 abrogating personal cultivation as a ground for the dispossession of a tenant cannot be given retroactive effect. The value of the decision of the Court of Appeals in the *Arambulo* case which was affirmed by this Court in a minute resolution has, therefore, lost its force in view of the en banc decision of this Court in *Nilo vs. Court of Appeals*, supra.

We find and, therefore, hold that that insofar as coconut lands and other lands devoted to permanent trees are concerned, personal cultivation by the landowner as a ground for dispossessing the tenant-lessee under Section 50 of Republic Act 1199 is still a valid ground.

WHEREFORE, judgment is hereby rendered affirming the decision of the Court of Appeals subject of the pre-sent petition for review and dismissing the herein petition. Without pronouncement as to costs.

SO ORDERED.

Melencio-Herrera, Plana, and Gutierrez, Jr., JJ., concur.
Teehankee, C.J., in the result.

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