

ALBERTO TECSON, LEO TECSON, CELERINO TECSON, CRISPULO TECSON, RICHARD TECSON AND ELY TECSON, PETITIONERS, VS. HON. ARTHUR L. ABUDIENTE, ACTING AS PRESIDING JUDGE OF THE REGIONAL...

Ponente: PEREZ, J.

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PEREZ, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court assailing the Order[1] dated 27 July 2012 of the Regional Trial Court (RTC) of Initao, Misamis Oriental, Branch 44, which denied petitioners' motion for reconsideration[2] of the RTC's 18 May 2012 Order[3] denying their Motion to Refer the Cases to the Department of Agrarian Reform (DAR).

The Facts

Petitioners were charged with the offense of qualified theft of coconuts by respondent Felimon Generalao, Jr. in Criminal Cases Nos. 2006-1486, 2009-1823, 2009-1824 and 2011-1983. They pleaded not guilty claiming that the subject coconuts were planted by Isaac Tecson (Isaac) on the parcel of land (Lot No. 1341-B) given to him by Felimon Generalao, Sr.[4]

Petitioners are children and nephews of Isaac. They alleged that sometime in 1948, Isaac was taken by Felimon Generalao, Sr. from San Fernando, Cebu to be his tenant on his three (3) big vacant parcels of land, located at Punta Silum, Manticao, Misamis Oriental. On account of Generalao Sr.'s benevolence, Isaac was tasked to transform the three big parcels of land into a coconut plantation. A portion of this property identified as Lot No. 1341-B was given by Felimon Sr. to Isaac as homelot to be used as the latter's residence and that of his family. While cultivating and developing the three parcels of land, Isaac also cultivated the small lot for home gardening and planted some coconut seedlings for personal use.[5]

After Felimon Sr. died in 1962, his children partitioned his estate among themselves. Felimon Generalao, Jr. and Paz Generalao Uy took as their share the land including the homelot given to Isaac. On 21 May 1998, Felimon, Jr. and Isaac executed a "Kasabutan Sa Abang Sa Yuta"[6] or Leasehold Agreement on the portion pertaining to Felimon, Jr.'s share.[7]

Petitioners further alleged that sometime in 2002, Felimon Jr. informed Isaac to transfer their house since they were going to use the land where it was erected. Isaac and his children refused to give up their rights over the house and the few coconuts in their small parcel of land. For his part, Felimon Jr. on several occasions, charged Alberto Tecson and other siblings for Qualified Theft of Coconuts when the Tecson family made several harvests of coconuts.[8]

On the other hand, private respondent Felimon Jr. contended that they owned the lands where the coconuts were harvested, identified as Lot No. 1341 covered by OCT No. P-9355 containing an area of 6,110 square meters, and Lot No. 1340 containing an area of 3,650 square meters. On Lot No. 1341, there are twelve existing houses of fishermen who are paying monthly rentals to Felimon Jr. They also countered that the tenancy relations between

Isaac Tecson and the Generalaos had been ordered terminated[9] by the DAR in DARAB Case No. X(06) 11366.[10]

On 24 October 2011, petitioners filed a Motion to Refer the Cases [Criminal Cases Nos. 2006-1486, 2009-1823 and 2009-1824] to the DAR[11] pursuant to Section 19 of Republic Act 9700. On 8 December 2011, they also filed a similar motion for Criminal Case No. 2011-1983 pending in the same court.[12]

In an Order dated 18 May 2012, the RTC denied petitioners' motion, finding that the allegations in the motion are evidentiary in nature and are best ventilated during the trial on the merits. The dispositive portion of the Order reads:

“WHEREFORE, the motion to refer the case to the DAR is hereby DENIED.”

SO ORDERED.

On 3 June 2012, petitioner filed a Motion for Reconsideration, but the same was denied in the RTC's Order dated 27 July 2012.

Aggrieved, petitioners raise before Us this lone assignment of error:

THE PUBLIC RESPONDENT HONORABLE ACTING PRESIDING JUDGE RESPONDENT GRAVELY ABUSED HIS DISCRETION IN DENYING PETITIONERS' MOTION FOR RECONSIDERATION TO REFER THE CASE TO DAR FOR DETERMINATION OF WHETHER OR NOT AN AGRARIAN DISPUTE EXISTS DESPITE THE FACT THAT THE LAW REQUIRES IT.

The Court's Ruling

The petition is meritorious.

This Court finds that the court a quo erred when it disallowed the referral of the pending criminal cases to the Department of Agrarian Reform (DAR) before proceeding with the trial thereof.

Section 19 of Republic Act (R.A.) No. 9700 (Jurisdiction on and Referral of Cases that Are Agrarian in Nature) explicitly provides:

"SEC. 19. Section 50 of Republic Act No. 6657, as amended, is hereby further amended by adding Section 50-A to read as follows:

"SEC. 50-A. Exclusive Jurisdiction on Agrarian Dispute. — No court or prosecutor's office shall take cognizance of cases pertaining to the implementation of the CARP except those provided under Section 57 of Republic Act No. 6657, as amended. If there is an allegation from any of the parties that the case is agrarian in nature and one of the parties is a farmer, farmworker, or tenant, the case shall be automatically referred by the judge or the prosecutor to the DAR which shall determine and certify within fifteen (15) days from referral whether an agrarian dispute exists: Provided, That from the determination of the DAR, an aggrieved party shall have judicial recourse. In cases referred by the municipal trial court and the prosecutor's office, the appeal shall be with the proper regional trial court and in cases referred by the regional trial court, the appeal shall be to the Court of Appeals. [Emphasis Supplied]

“In cases where regular courts or quasi-judicial bodies have competent jurisdiction, agrarian reform beneficiaries or identified beneficiaries and/or their associations shall have legal standing and interest to intervene concerning their individual or collective rights and/or interests under the CARP.

xxx.”

An agrarian dispute refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy,

stewardship or otherwise over lands devoted to agriculture, including (1) disputes concerning farm workers' associations; or (2) representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangement, and includes "any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee.[13]

In *Monsanto v. Zerna*,^[14] citing *Estates Development Corporation v CA*, the Supreme Court listed the essential elements of a tenancy relationship in this wise:

For DARAB to have jurisdiction over a case, there must exist a tenancy relationship between the parties. In order for a tenancy agreement to take hold over a dispute, it would be essential to establish all its indispensable elements to wit: 1) the parties are the landowner and the tenant or agricultural lessee 2) subject matter of the relationship is an agricultural land 3) there is consent between the parties to the relationship 4) that the purpose of the relationship is to bring about agricultural production 5) there is personal cultivation on the part of the tenant or agricultural lessee and 6) the harvest is shared between the landowner and the tenant or agricultural lessee.

Although it appears that the tenancy relations between Eduardo Generalao as administrator of the estate of Felimon Generalao, Sr. and Isaac Tecson had been ordered terminated in DARAB Case No. X (06) 1366 in November 1998, about eight years prior to the alleged stealing of coconuts by petitioners, this Court notes that it is not Isaac Tecson who is presently charged with qualified theft cases but his children and nephews, petitioners herein. Thus, the DARAB's order terminating the tenancy relations between Isaac and Felimon cannot bind the petitioners who were not parties in DARAB Case NO. X (06) 1366.

Even presupposing that the tenancy relations between the Generalaos and the Tecsons have been severed, the cases are not necessarily removed from the ambit of an agrarian dispute.^[15] In *David v. Rivera*,^[16] the Supreme Court is instructive:

[I]t is safe to conclude that the existence of prior agricultural tenancy relationship, if true, will divest the MCTC of its jurisdiction. The previous juridical tie compels the characterization of the controversy as an "agrarian dispute." x x x Even if the tenurial arrangement has been severed, the action still involves an incident arising from the landlord and tenant relationship. Where the case involves the dispossession by a former landlord of a former tenant of the land claimed to have been given as compensation in consideration of the renunciation of the tenurial rights, there clearly exists an agrarian dispute. On this point the Court has already ruled:

Indeed, section 21 of Republic Act No. 1199, provides that 'all cases involving the dispossession of a tenant by the landlord or by a third party and/or the settlement and disposition of disputes arising from the relationship of landlord and tenant ... shall be under the original and exclusive jurisdiction of the Court of Agrarian Relations.' This jurisdiction does not require the continuance of the relationship of landlord and tenant – at the time of the dispute. The same may have arisen, and often times arises, precisely from the previous termination of such relationship. If the same existed immediately, or shortly, before the controversy and the subject-matter thereof is whether or not said relationship has been lawfully terminated, or if the dispute springs or originates from the relationship of landlord and tenant, the litigation is (then) cognizable by the Court of Agrarian Relations

Considering that the subject matter of the dispute involves the termination of tenurial relations between the parties or specifically, whether the dispute from which the cases of qualified theft arose originates from such alleged relationship, referral of the criminal cases to the DAR solely for determination of that issue will serve the statutory goal of reserving jurisdiction in agrarian disputes to the agency tasked to implement agrarian laws.

R.A. 9700 unequivocally provides that if an allegation of tenancy is made by any party in a pending civil or criminal case, the same should automatically be referred to the DAR for determination whether an agrarian dispute exists. Inasmuch as the petitioners were able to allege and raise the defense of tenancy in their pleadings, it is thus, incumbent upon the court a quo to make a referral of the instant case to the DAR. Whether or not this case partakes of the nature of an agrarian dispute is an issue that needs to be preliminarily determined by the DAR, which warrants the suspension of the proceedings in the court a quo pending the DAR's findings and certification.

It is in this light that the RTC's deferment of this issue as being evidentiary is clearly error since regular courts have no authority to determine the existence or non-existence of a tenancy relationship.

Nonetheless, We stress that the RTC is not divested of jurisdiction^[17] to hear the case even if an averment or defense of tenancy is made in a pending case.

In *Mendoza v. Germino*,^[18] the High Court in ruling that an allegation of tenancy does not divest the MTC of jurisdiction over a forcible entry case, espoused that:

Although respondent Narciso averred tenancy as an affirmative and/or special defense in his answer, this did not automatically divest the MTC of jurisdiction over the complaint. It continued to have the authority to hear the case precisely to determine whether it had jurisdiction to dispose of the ejectment suit on its merits. After all, jurisdiction is not affected by the pleas or the theories set up by the defendant in an answer or a motion to dismiss. Otherwise, jurisdiction would become dependent almost entirely upon the whims of the defendant.

In the case at bar, there is no question that the RTC had criminal jurisdiction to try petitioners for the crime of qualified theft.^[19] In the normal course, it had authority to determine whether they had committed the crime charged.^[20] In *Monsanto v. Zerna*,^[21] the Supreme Court upheld the RTC's jurisdiction in deciding the criminal case insofar as it determined whether private respondents were guilty of qualified theft, but not as to its ruling on the agricultural tenancy relationship between the parties by awarding the proceeds of the copra sale to petitioner.

In a catena of cases, the High Court has made the pronouncement that once jurisdiction is vested, the same is retained up to the end of the litigation. In the event that after such hearing, tenancy had in fact been shown to be the real issue, the court is not without an option to dismiss the case for lack of jurisdiction.^[22]

In this case, while the court a quo validly retained jurisdiction over the criminal cases, it should have proceeded to refer the same to the DAR and await the DAR's finding on whether or not an agrarian dispute thus exist, pursuant to Section 50-A of RA 9700. In the event that the DAR finds and certifies that an agrarian dispute exists conferring jurisdiction thereof to the DARAB or the SAC, the court a quo is again not without an option to order the dismissal of the case. In esse, We see no impairment of the RTC's jurisdiction in referring the case to the DAR first for appropriate disposition and certification, being the administrative body of special competence and expertise granted by law with primary and exclusive original jurisdiction over agrarian reform matters. In fact, it would have saved the court ample time and resources should it had granted petitioners' motion to refer the cases to the DAR at the earliest instance.

In *Department of Agrarian Reform v. Cuenca*,^[23] the High Court stressed that "[a]ll controversies on the implementation of the Comprehensive Agrarian Reform Program (CARP) fall under the jurisdiction of the Department of Agrarian Reform (DAR), even though they raise questions that are also legal or constitutional in nature. All doubts should be resolved in favor of the DAR, since the law has granted it special and original authority to hear and adjudicate agrarian matters."

Further, it bears stressing that it is in keeping with the Court's policy to expedite the resolution of cases involving

agrarian disputes and to fully implement the objectives of agrarian reform laws that all courts and judges concerned are enjoined to strictly observe Section 50-A of R.A. No. 6657, as amended by R.A. No. 9700, and refer all cases before it alleged to involve an agrarian dispute to the DAR for the necessary determination and certification.[24]

We, therefore, find that the court a quo erred in denying petitioners' motion to refer the cases to the DAR on the mere ground that the allegations in the motion are evidentiary in nature and are best ventilated during the trial on the merits. The court a quo, at the earliest opportunity, should have acceded to the DAR's original and exclusive jurisdiction for the necessary determination and certification on whether or not an agrarian dispute exists.

WHEREFORE, the petition is GRANTED. The Order dated 27 July 2012 of the Regional Trial Court (RTC) of Initao, Misamis Oriental, Branch 44, is hereby ANNULLED and SET ASIDE.

Accordingly, the Regional Trial Court (RTC) of Initao, Misamis Oriental, Branch 44 is DIRECTED to refer Criminal Cases Nos. 2006-1486, 2009-1823, 2009-1824 and 2011-1983 to the Department of Agrarian Reform pursuant to Section 50-A of R.A 9700.

SO ORDERED.

Camello, J., Ch., Lopez and Inting, JJ., concur.

[1] Rollo, pp. 44-45.

[2] Id. at 34-43.

[3] Id. at 32-33.

[4] Rollo, pp. 3-4.

[5] Id. at 4.

[6] Id. at 19-20.

[7] Id. at 5.

[8] Ibid.

[9] Rollo, pp. 66-67.

[10] Id. at 62-64.

[11] Id. at 23-27.

[12] Id. at 28-31.

[13] *Nisperos v Nisperos-Ducusin*, G.R. No. 189570, 31 July 2013.

[14] G.R. No. 142501, 7 December 2001.

[15] *Spouses Fajardo v. Flores*, G.R. No. 167891, 15 January 2010.

[16] G.R. Nos. 139913 & 140159, 16 January 2004.

[17] *Nisperos v Nisperos-Ducusin*, G.R. No. 189570, 31 July 2013. It is axiomatic that the jurisdiction of a tribunal, including a quasi-judicial officer or government agency, over the nature and subject matter of a petition

or complaint is determined by the material allegations therein and the character of the relief prayed for, irrespective of whether the petitioner or complainant is entitled to any or all such reliefs. Jurisdiction over the nature and subject matter of an action is conferred by the Constitution and the law, and not by the consent or waiver of the parties where the court otherwise would have no jurisdiction over the nature or subject matter of the action. Nor can it be acquired through, or waived by, any act or omission of the parties.

[18] G.R. No. 165676, 22 November 2010.

[19] ART. 308. Who are liable for theft.—Theft is committed by any person who, with intent to gain but without violence, against, or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent.

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ART. 310. Qualified Theft.—The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of a plantation, fish taken from a fishpond or fishery or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance. (Emphasis supplied.)

[20] Monsanto v. Zerna, G.R. No. 142501, 7 December 2001.

[21] Ibid.

[22] Bernarte v CA, G.R. No. 107741, 18 October 1996.

[23] G.R. No. 154112, 23 September 2004.

[24] OCA CIRCULAR NO. 62-10, 28 April 2010.

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