

SALVADOR M. DIAMSAY, PETITIONER, VS. BIENVENIDO M. DIAMSAY AND AURORA BENITEZ, RESPONDENTS.

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is a Petition for Review[1] under Rule 42 of the 1997 Revised Rules of Civil Procedure seeking to reverse and set aside the Decision[2] dated April 29, 2013 of the Regional Trial Court (RTC), Third Judicial Region, Branch 64, Tarlac City in Civil Case No. 122-2012 entitled “Bienvenido M. Diamsay and Aurora Benitez, Plaintiffs-Appellees, versus Salvador M. Diamsay and all other persons claiming rights under him, Defendants-Appellants.”, the dispositive portion of which reads:

“WHEREFORE, premises considered, the appeal is DENIED. The assailed decision dated October 8, 2012 of the 5[th] Municipal Circuit Trial Court, Gerona-Ramos-Pura, Tarlac is hereby AFFIRMED.

SO ORDERED.”

The facts are:

On March 6, 2012, respondents Spouses Bienvenido M. Diamsay and Aurora Benitez (Sps. Diamsay for brevity) filed with the 5[th] Municipal Circuit Trial Court (MCTC) of Gerona-Ramos-Pura, Tarlac a Complaint[3] for ejectment against petitioner Salvador M. Diamsay (Salvador for brevity) alleging that: they are the registered owners of a parcel of land covered by Transfer Certificate of Title (TCT) No. 24323 of the Registry of Deeds for the Province of Tarlac, situated in Estipona, Pura, Tarlac; petitioner Salvador has been occupying the subject property as its caretaker without being required to pay rental or fees whatsoever; during the later part of 2011, they informed petitioner Salvador that they needed the subject property for themselves, thus they demanded that he and all persons claiming rights under him vacate the same; however, petitioner Salvador failed and refused to heed their demand, thereby making his possession of the subject property illegal; they sought amicable settlement of the dispute with the Barangay Agrarian Reform Committee (BARC) of Barangay Estipona, Pura, Tarlac, but the parties failed to reach a settlement; and, consequently, a Certificate to File Action was issued by the BARC.

In his Answer,[4] petitioner Salvador averred that: sometime in 2001, he replaced his father as tenant of the subject property after being persuaded by respondents Sps. Diamsay to transfer his residence from Nueva Ecija; after being instituted as tenant and caretaker of the subject property by respondent Bienvenido Diamsay, who is his uncle, he improved it by planting rice and 86 mango trees; there was no demand to vacate the subject property and this case did not pass through mediation proceeding as required by law; there was no legal ground for his ejectment from the subject property as the only disagreement between the parties was his refusal to work on respondents Sps. Diamsay's land situated in another place; he built his house on the subject property in good faith, thus he should not be ordered to remove it or vacate the premises without being reimbursed of his expenses therefor; and, since this case involves tenancy relationship between the parties, it is the DARAB and not the court which has jurisdiction over it.

After the preliminary conference, the parties were required to, as they did file, their respective position papers.[5]

On October 8, 2012, the MCTC rendered a Decision[6] with the following disposition:

“WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendant, ordering the latter and all other person or persons claiming rights under him:

- to vacate and surrender possession of the land in question to the plaintiffs; and
- to pay the costs.

SO ORDERED.”

Aggrieved, petitioner Salvador appealed from the decision of the MCTC to the RTC Branch 64, Tarlac City which rendered the assailed decision. A Motion for Reconsideration[7] thereof was denied in a Resolution[8] dated August 2, 2013. Hence this petition assigning the following errors:

- THE HONORABLE COURT ERRED IN FAILING TO CONSIDER THE CASE AS AN AGRARIAN DISPUTE.
- THE HONORABLE COURT ERRED IN FAILING TO REFER THE CASE TO THE PROVINCIAL AGRARIAN REFORM OFFICE FOR DETERMINATION OF WHETHER OR NOT THE CASE IS PROPER FOR TRIAL; and
- THE HONORABLE COURT FAILED TO CONSIDER THAT THE APPELLEES NOW RESPONDENTS DID NOT DEMAND THE PETITIONERS TO VACATE.

The petition is meritorious.

Petitioner Salvador argues that: Department of Agrarian Reform (DAR) Administrative Order No. 3, Series of 2011 and OCA Circular No. 62-2010 implementing Republic Act No. 9700, otherwise known as the CARPER Law mandate the automatic referral of the case filed before the court to the Provincial Agrarian Reform Office (PARO) for determination of tenancy relationship if there appears in the pleading an allegation that one of the parties is an agricultural tenant or farmworker; in this case, he alleged in his answer that he is a tenant of the subject property owned by respondents Sps. Diamsay, yet the MCTC and the RTC did not refer this case to the PARO as required by the law; had this case been referred to the PARO, said office could have conducted an investigation to determine whether a tenancy relationship between the parties exists; the presence of his house on the subject property, the referral of this case to the BARC before its filing with the court, and the fact that he has been the actual tiller of the subject property for a number of years, clearly indicate the existence of a tenancy relationship between him and respondents Sps. Diamsay; in unlawful detainer cases, the demand to vacate should be in writing to prove that the case was filed within one year from the time said demand was made; and, in this case, respondents Sps. Diamsay merely alleged in their complaint that the demand to vacate was made “sometime in the later part of year 2011,” however, even if the case was filed on March 6, 2012, there is no competent evidence, i.e., a demand letter, showing that such demand was in fact made.

In a Resolution[9] dated October 16, 2013, this Court required respondents Sps. Diamsay to file their comment on the petition. However, despite receipt thereof, they failed to comply therewith. Thus, in a Resolution[10] dated March 20, 2014, they were deemed to have waived the filing of their comment. When the parties were required to file their memoranda, they both manifested[11] that they were adopting their respective position papers filed with the MCTC as their memoranda in this petition.

The filing of this petition is premised on the argument that the MCTC and the RTC failed to consider this case as an agrarian dispute and to refer it to the DAR as required by Section 19 of Republic Act No. 9700.

The MCTC in taking cognizance of this case ruled that petitioner Salvador's claim of tenancy relationship between him and respondents Sps. Diamsay is bereft of merit since he failed to "submit even a single piece of evidence to support such claim." On appeal, the RTC affirmed the ruling of the MCTC, stating that the allegations in the complaint clearly make out a case for unlawful detainer. This Court is not convinced.

Both the MCTC and the RTC failed to comply with the provisions of Sec. 19, Republic Act (R.A.) No. 9700[12] which further amended R.A. No. 6657,[13] requiring the judge or prosecutor to refer the case to the DAR 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, thus:

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

Section 50-A. EXCLUSIVE JURISDICTION ON AGRARIAN REFORM 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 to the Municipal Trial Court and to the Prosecutor's Office, the appeal shall be with the proper Regional Trial Court and in cases referred to the Regional Trial Court, the appeal shall be to the Court of Appeals."

In his Answer, petitioner Salvador alleged:

"1. That they deny par. 1, 2, 3, 4 of the complaint, the truth is that it was defendants (sic) father who had been in possession of the land subject of the above entitled case. That it was only sometime in 2001 when he replaced his father and by persuasion of plaintiff, he transferred his houses (sic) from Nueva Ecija to Pura, Tarlac in the lot of plaintiff, and improved it with knowledge, tolerance and assurance of plaintiff who is his uncle. He was then instituted as a tenant and a caretaker of the land by planting mango tress which number about 86 trees, and at the same time plant palay thereon, continuously up to the present."

Petitioner Salvador claims that he is a tenant of respondents Sps. Diamsay, having been instituted as such in 2001. While he did not categorically state that this case is agrarian in nature or use the phrase "agrarian in nature," the same can be reasonably inferred from the foregoing allegations.

Sec. 3(d) of Republic Act No. 6657, as amended, defines an agrarian dispute as any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers associations or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements. After being asked to vacate, petitioner Salvador invoked the existence of a tenurial arrangement between him and respondents Sps. Diamsay, claiming that he could not be ejected from the subject property because he is a tenant. The subject property is admittedly devoted to agriculture. Thus, from petitioner Salvador's allegation in his answer, this case appears to be agrarian in nature, being a controversy relating to a tenurial arrangement between a landowner and a tenant of a land devoted to agriculture.

Nonetheless, under Sec. 19 of R.A. No. 9700, which took effect on July 1, 2009, it is the DAR which determines whether an agrarian dispute exists, and not the court or the prosecutor. All that the judge or the prosecutor has to look for in the complaint or in the answer are the allegations that the case is agrarian in nature and that one of the parties is a farmer, farmworker, or tenant. As stated above, those allegations are present in petitioner Salvador's answer. However, the MCTC gravely erred when it took upon itself the determination of the existence of an

agrarian dispute which is a function of the DAR . It is only after the DAR had come up with its finding on the existence or non-existence of an agrarian dispute that the RTC or the Court of Appeals, as the case maybe, may review the same on appeal by the aggrieved party.

It also bears to note that before this case was filed with the MCTC, a complaint against petitioner Salvador was filed by respondents Sps. Diamsay with the BARC of Barangay Estipona, Pura, Tarlac which issued the Certification to File Action,[14] an implied admission that this case is agrarian in nature. Granting arguendo that this is an unlawful detainer case, the certification to file action should have been issued by the Lupon of Barangay Estipona and not by the BARC of said barangay.

In sum, the MCTC erred in rendering its Decision dated October 8, 2012 and the RTC likewise erred in affirming the same in the assailed Decision dated April 29, 2013.

WHEREFORE, the appeal is GRANTED. Accordingly, the assailed Decision dated April 29, 2013 of the RTC of Tarlac City, Branch 64 in Civil Case No. 122-2012 affirming the Decision dated October 8, 2012 of MCTC of Gerona-Ramos-Pura, Tarlac is REVERSED and SET ASIDE.

Let this case be referred to the DAR for the determination of the existence of an agrarian dispute.

SO ORDERED.

Bruselas, Jr., and Barrios,[*] JJ., concur.

[*] Vice J. Samuel H. Gaerlan per Office Order No. 270-14-RSF dated June 6, 2014

[1] Rollo, pp. 10-16

[2] Rollo, 23-29

[3] Rollo, pp. 36-39

[4] Rollo, pp. 48-49

[5] Rollo, pp. 45-48

[6] Rollo, pp. 17-22

[7] Rollo, pp. 30-34

[8] Rollo, p. 35

[9] Rollo, p. 64

[10] Rollo, p. 66

[11] Respondents Sps. Diamsay's Manifestation/Compliance, Rollo, 71; Petitioner Salvador's Manifestation, Rollo, pp. 75-77

[12] An Act Strengthening the Comprehensive Agrarian Reform Program (CARP), Extending the Acquisition and Distribution of all Agricultural Lands, Instituting Necessary Reforms, Amending for the Purpose Certain Provisions of Republic Act No. 6657, Otherwise Known as the Comprehensive Agrarian Reform Law of 1988, As Amended, and Appropriating Funds Therefor.

[13] Otherwise known as the Comprehensive Agrarian Reform Law

[14] Rollo, p. 42

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