

RUSTICO GADDI, PETITIONER, VS. HON. DOMINGO M. CABAÑGON JUDGE, COURT OF AGRARIAN RELATIONS AND FELIPE DIZON RESPONDENTS.

G.R. No. L-16890. October 29, 1966

Ponente: REGALA, J.

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REGALA, J.:

This is a petition to review a decision and an order of the Court of Agrarian Relations of San Fernando, Pampanga.

On July 27, 1959, Felipe Dizon filed with the lower court a complaint against his land tenant Rustico Gaddi, seeking to have the latter ejected from his landholding on the ground that he (Gaddi) violated an agreement dated June 3, 1958, whereby he promised to voluntarily surrender to his landlord the aforesaid landholding five days after harvesting the crops for the agricultural year 1958-1959.

The said tenant, thru counsel, filed an answer with counterclaim, denying the charge and claiming to have suffered actual and moral damages on account of the filing of the complaint or petition.

After Dizon had answered the counterclaim, the case was scheduled for hearing on November 26, 1959, before Commissioner Quintin Yumul, but since the said date was declared a special holiday the hearing date was transferred to December 8, 1959.

In spite of notice, Rustico Gaddi, personally, or thru counsel, failed to appear on December 8, 1959. Counsel for Dizon then verbally moved to be allowed to present his evidence *ex parte*, but the court, "in the interest of justice" decided to give Gaddi another chance to make a proper defense. The commissioner issued an order resetting the hearing to December 22, 1959, which order was served upon Gaddi by registered mail on December 10, 1959. But again on the said hearing date, neither Gaddi nor his lawyer appeared. Attorney for Dizon was thus allowed to present his evidence in the absence of Gaddi.

After the hearing, Dizon filed a petition to admit his amended complaint. Whereupon, Gaddi filed an omnibus motion praying that the complainant be directed to furnish the respondent a copy of his amended complaint and to suspend the running of the period to file an answer to said amended complaint, and to grant to his counsel five days from the date of receipt of a copy of said amended complaint within which to file an answer or any responsive pleading.

On January 29, 1960, Commissioner Yumul denied the omnibus motion on the ground that the motion of Felipe Dizon to admit the amended complaint was only to have the complaint conform to the evidence which had already been adduced. In that order of denial, the hearing was transferred to February 4, 1960.

Gaddi moved to postpone the hearing set for February 4, 1960 but this was denied. Hearing proceeded.

Finally, Judge Cabañgon rendered judgment holding that the tenant Gaddi should be ejected not on the ground of

having violated their agreement of June 3, 1958, but for his failure to deliver fifteen (15) cavans of palay to his landlord as the latter's share for the agricultural year 1958-1959.

Motion for reconsideration of the decision having been denied, Rustico Gaddi has elevated the case to Us raising the questions as to the authority of the Agrarian Court to admit evidence on matters not included in the complaint notwithstanding his absence during the hearing, and the veracity of the finding that he failed to deliver to the landholder the latter's share of the 1958-1959 harvest.

In his answer to the petition, the respondent judge calls our attention, first of all, to the fact that the petition to review was filed late. And in answering the legal question raised, the judge asserts:

"This claim in the petition for review is a matter of procedure. It may be correct if the judgment under consideration is one entered by default in which situation the lower court cannot award relief beyond what is authorized by the complaint in accordance with the allegations therein and proven. The case at bar is distinct and different from one in which the decision was entered by default. In this case at bar, the records show and admitted that the petitioner herein as respondent in the lower court filed his answer but at the time of hearing on the merits, he did not appear which was on December 22, 1959. In view of this non-appearance of said Rustico Gaddi and his counsel, the landholder proved other facts in addition to those alleged in the complaint. Under the circumstances, it is believed that the lower court is authorized to consider, not only the allegations as proven but also the facts which are not alleged but, there being no objection, the same were adduced in evidence. The decision at bar is justified by Section 11 of Republic Act No. 1267, as amended, to wit:

'Character of Order or Decision.—In issuing an order or decision, the court shall not be restricted to the specific relief claimed or demands made by the parties to the dispute, but may include in the order or decision any matter for determination which may be deemed necessary and expedient for the purpose of settling the dispute or preventing further disputes, provided that said matter for determination has been established by competent evidence during the hearing.'

"The above-quoted legal provision does not limit the decision to include only the issue or issues alleged in the pleadings. It does not restrict the decision to settle, decide and to determine other disputes not pleaded. The decision may, by reason of necessity and expediency, include any other matter not pleaded for the purpose of 'preventing further disputes' and provided that said additional matter in dispute, but not pleaded, 'has been established by competent evidence during the hearing.'

"This situation is also legally permitted in ordinary and regular proceedings if the defendant is not declared in default, according to Section 9 of Rule 35 of the Rules of Court, to wit:

'SEC. 9. Extent of relief to be awarded.—A judgment entered by default shall not exceed the amount or be different in kind from that prayed for in the demand for judgment. In other cases the judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings.' "

As correctly observed by the respondent judge in his answer, this petition should have been filed with this court not later than April 18, 1960. For, according to paragraph 8 of the said petition, the lawyer for petitioner actually received a copy of the decision sought to be reviewed on February 19, 1960. After 5 days (of the 15-day period to appeal), or on February 24, 1960, he filed his motion for reconsideration. On April 7, 1960, counsel received copy of the order denying his motion for reconsideration from which date the remaining 11 days of the period to appeal again started to run, making April 18 the end of that period. Petitioner, however, filed the instant petition only on May 3, 1960.

Section 13 of Republic Act 1267, as amended, which governed appeals from decisions of the Court of Agrarian

Relations before the passage of the Agricultural Reform Code,[1] provides:

"Review by the Supreme Court.—Appeal may be taken from an order or decision of the Court of Agrarian Relations promulgated under the provisions of this Act and a review of such order or decision may be obtained in the Supreme Court by filing in such court within fifteen days from receipt of notice of such order or decision a written petition praying that it be modified or set aside in whole or in part. The review by the Court shall be limited to questions of law, and findings of fact when the decision is not supported by substantial evidence."
(Italics supplied)

It may be true that counsel for herein petitioner had filed with the lower court an Urgent Ex-Parte Petition for the extension of time to make his appeal, but this should have been directed to this Court before the expiration of the said period.

It is worthy to note, in this connection, that the petitioner or his counsel had not been alert and vigilant in the defense of his case. On two hearing dates set by the lower court, he failed to appear, and on the last day set, he moved for postponement. Petitioner's lack of interest has become even more evident by his failure to file with this Court a timely brief or memorandum to support his petition to review.

Since we are dismissing the petition for having been filed out of time, we need not discuss the issues raised by the petitioner.

Wherefore, the petition is hereby dismissed, without pronouncement as to costs.

Conception, C. J., Reyes, J. B. L., Dizon, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Petition dismissed.

[1] Approved August 8, 1963.

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