

**VIOLETA VELASCO AND LEONARDO VELASCO, PETITIONERS, VS.
HON. JUDGE EUGENIO MA. MOSUELA, HON. MINISTER CONRADO F.
ESTRELLA AND RIZAL GAOAT, RESPONDENTS.***G.R. Nos. L-49624-25. May 26, 1981*

Ponente: MELENCIO-HERRERA, J.

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For consideration is the legality or propriety of the Order, dated May 22, 1978, of the Court of Agrarian Relations, Branch IV, Bayombong, Nueva Vizcaya, in CAR Cases Nos. 617 and 618, which ordered the reinstatement of private respondent, Rizal Gaoat, as tenant, to the landholdings owned by petitioners Violeta Velasco and Leonardo Velasco, who belong to the cultural minority (p. 22, Rollo).

Violeta Velasco owns a parcel of agricultural land with an area of two hectares, while her brother Leonardo Velasco, owns two such parcels, of one hectare each, which properties are all situated at Barrio San Leonardo, Bambang, Nueva Vizcaya. Petitioners claim that they sold these parcels of land with the right to redeem, to respondent, Rizal Gaoat, on July 19, 1964.[1] The latter took possession of the land and cultivated the same in accordance with the custom of the province, keeping the harvests for himself. Sometime in January 1974, petitioners redeemed the properties and took over the possession and cultivation of the same.

Gaoat claimed, however, that even before the sale he was already tenantry the properties so that, on February 12, 1974, assisted by Atty. Francisco Elefante of the Bureau of Agrarian Legal Assistance (BALA), Bayombong, Nueva Vizcaya, he filed Complaints for reinstatement and reliquidation of crops with damages against Leonardo Velasco and Violeta Velasco (hereinafter simply referred to as the Velascos) in the Court of Agrarian Relations at Bayombong, docketed as CAR Cases Nos. 595 and 597, respectively. These cases were dismissed by the CAR without prejudice,[2] which dismissal was affirmed by the Court of Appeals.[3]

On May 6, 1974, Gaoat instituted anew, actions for reinstatement, fixing of rentals and reliquidation of crops against the Velascos, docketed as CAR Cases Nos. 617 and 618. The Velascos denied tenancy relationship in their respective Answers and insisted that Gaoat was merely a vendee-a-retro of said properties.

On October 14, 1974, the Velascos moved to dismiss the cases on the ground of absence of jurisdiction of the CAR, there being no tenancy relationship between the parties. The CAR, Judge Miguel T. Valera, presiding, without resolving that question, referred the cases to the Department of Agrarian Reform (DAR), Bayombong, Nueva Vizcaya, pursuant to Presidential Decree No. 316. A summary investigation was conducted. On December 2, 1975, the Regional Director of the DAR, Cagayan Valley, Region 02, Tuguegarao, Cagayan, issued a Certification that said cases were "not proper for trial." [4] The records were then remanded to the CAR.[5]

On January 6, 1976, the CAR, with Judge Valera still presiding, dismissed the cases on the basis of said Certification.[6] Gaoat, on February 2, 1976, requested the Regional Office to furnish him with copies of the minutes of investigation, findings and recommendations of the Investigating Attorney of the DAR Regional Office. He also filed with the CAR an Urgent Motion for extension of time to file his next pleading, and to order

the stenographer of the Court to transcribe the notes taken during the hearing on his Motion for immediate reinstatement to the landholding in question during the pendency of the cases.[7]

On February 27, 1976, private respondent received copies of the pleadings from the Regional Director of the DAR, and on March 8, 1976, the transcript of stenographic notes from the Court. He appealed the Certification of the Regional Director attesting to the impropriety of the cases for trial, to the Secretary (now Minister) of Agrarian Reform on March 20, 1976, furnishing copies of the appeal to Atty. Dawn Gayagoy, counsel for the Velascos, and to the Regional Director through the District Officer, DAR, Bayombong.[8] No copy was apparently sent to the CAR.[9]

In the meantime, on March 22, 1976, Judge Valera released an Order declaring the dismissal of the cases final, "no notice of appeal nor is there an appeal perfected," and denying all Motions submitted for resolution.[10]

On July 7, 1976, Secretary (now Minister) Conrado F. Estrella issued an Order, which reversed the Certification of the Regional Director, and declared instead that the cases were "proper for trial with respect to the fixing of rentals and reinstatement", but "not proper for trial with regard to defense of dispossession or ejectment by defendants" (the Velascos).[11] The Velascos moved for reconsideration arguing that the Department of Agrarian Reform had no authority to order the reopening of the cases as the dismissal had been declared final by the Court of Agrarian Relations.[12] Resolving the prayer for reconsideration, Acting Secretary Ernesto Valdez of the DAR, in his Order dated July 7, 1977, modified the DAR Order dated July 7, 1976, and ruled that the cases are "proper for trial," it appearing that "they are not within the purview of Presidential Decree No. 316 as the same were filed by the plaintiff, claiming to be a tenant, against the landowner for the purpose of seeking judicial relief to fix the rental and for reinstatement." [13]

On January 21, 1978,[14] Gaoat petitioned the CAR for the resolution of his previous Motion for the issuance of a Writ of Preliminary Mandatory Injunction to reinstate him to the landholding in question.[15] The CAR, on March 16, 1978, directed the parties to submit their respective memoranda thereon, but only Gaoat complied.[16]

On May 22, 1978, respondent Judge Eugenio Ma. Mosuela issued the challenged Order reading in part:

"...

"Although the Courts of Agrarian Relations are not bound by the findings of fact of the DAR in referral cases, yet, such findings are highly persuasive upon the Courts especially the findings of facts embodied in the Order of the Honorable, the Secretary of Agrarian Reform, as in the instant cases.

If only to resolve the instant motion, therefore, this Court is inclined to accept the findings of fact embodied in the aforesaid Order of the Honorable, the Secretary of Agrarian Reform.

WHEREFORE, premises considered, the plaintiffs motion at bar seeking for his reinstatement is hereby GRANTED.

The plaintiff is hereby ordered reinstated to the landholding in question. The Sheriff of this Court or his duly authorized representative is hereby ordered to reinstate the plaintiff Rizal Gaoat to the landholdings involved in these cases, with the aid of the P.C. or the local Integrated National Police, if necessary."

... "[17]

The Velascos moved for reconsideration alleging that the Court had already lost jurisdiction over the cases, and that the DAR did not have the authority to order the reopening of the cases under the principle of separation of powers, and because the Secretary of Agrarian Reform is an official coordinate and co-equal with the CAR Judge.

On December 18, 1978, respondent Judge Mosuela denied reconsideration ruling that the dismissal of the cases based on the DAR certification should be interpreted to mean "merely suspension of the proceedings and not outright dismissal", premised on:

"This view is reflected in Memorandum Circular No. 29, Series of 1973 that if the certification issued is to the effect that the case is not proper for trial, the Court motu proprio or upon proper application of the party concerned shall: 'a. Suspend the proceedings if the case is pending with the Court of Agrarian Relations.'"[18]

On January 8, 1979, the Velascos resorted to the instant Petition for Certiorari with Injunction seeking to set aside the Order of reinstatement dated May 22, 1978, and to enjoin respondent Judge from further proceeding with the cases and implementing the questioned Order. This Court, on January 10, 1979, required respondents to comment on the Petition and ordered the issuance of a temporary Restraining Order. On February 5, 1979, we gave due course to the Petition. Gaoat and the DAR submitted their

respective memoranda, but the Velascos failed to file any. In his Answer, Gaoat manifested that the CAR Order of reinstatement had been "fully implemented" as of December 29, 1978.

From the procedural standpoint, we find no grave abuse of discretion in the issuance by CAR of the Order reinstating Gaoat notwithstanding its previous Order of dismissal of these two cases.

Paragraph X of DAR Memorandum Circular No. 29, Series of 1973, implementing PD No. 316 in relation to PD No. 27 provides:

"2. In case the certification issued is to the effect that the case is not a proper case for trial, the court motu proprio or upon proper application of the party concerned shall:

a. Suspend the proceeding if the case is pending with the Court of Agrarian Relations."

The dismissal of the cases on January 6, 1976 by the CAR on the basis of the Certification of the Regional Director that they were not proper for trial, was, therefore, premature and in clear violation of the foregoing Circular. So also was its Order of March 22, 1977, which denied all pending Motions and decreed the dismissal final in the absence of any appeal for, in truth and in fact, there was an appeal by Gaoat from the Certification of the DAR Regional Director to the Secretary of Agrarian Reform, although, admittedly, no appeal was filed with the CAR. Pending before said Court, however, was Gaoat's Motion for extension of time to file his next pleading.

There should be no question but that the Secretary of Agrarian Reform is empowered to review the findings of the Regional Director particularly when a dissatisfied party appeals therefrom. That appeal was pending at the time the CAR ordered the dismissal of the cases. Strictly speaking, contrary to petitioners' contention, the DAR did not reopen the cases. It merely acted on an appeal previously interposed.

That appeal may also be considered to have been brought within a reasonable time. The Certification of the Regional Director was issued on December 2, 1975. Gaoat requested for copies of the minutes of investigation, findings and recommendation of the Investigating Attorney on February 2, 1976; he obtained copies of the same on February 27, 1976, and filed the appeal on March 20, 1976. He furnished copy of the same to the Velascos through Atty. Dawn Gayagoy, who represented them in the proceedings below. The Velascos cannot disclaim knowledge of the same as service on counsel is deemed service on the party.[19]

In resolving this aspect of the case, it should also be borne in mind that Courts of Agrarian Relations are not bound strictly by the technical rules of evidence in the hearing and determination of cases.[20] This is re-emphasized in Section 16 of Presidential Decree No. 946, effective on June 17, 1976, which explicitly states:

. . . "The Rules of Court shall not be applicable to agrarian cases, even in a suppletory character. It is the spirit and intention of the Decree that the Courts of Agrarian Relations shall utilize and employ every and all reasonable means to ascertain the facts of every case in accordance with justice and equity and the merits of the case, without regard to technicalities of law and procedure." . . .

From the substantive viewpoint, however, we find the CAR Order reinstating Gaoat precipitate. Reinstatement was Gaoat's main cause of action. That issue, therefore, should have been properly resolved only after hearing on the merits. There was no urgency to making a preliminary determination thereof.

The Velascos contend that they had not yet completed the presentation of their evidence on that issue. They stoutly disclaim any tenancy relationship contending that over the years 1958 to 1964 they had periodically sold their lands with the right to redeem to Gaoat, on account of which, in accordance with the custom of the locality and until the indebtedness was paid, Gaoat possessed and cultivated the lands appropriating all the harvest to himself. The Velascos redeemed the properties partially and took over cultivation in 1972 but, upon Gaoat's request, allowed the latter to cultivate the lands once more, and for the last time, for the crop year 1973-1974 after which the balance of their indebtedness was to be considered paid and the lands would be surrendered to the Velaseos.

Gaoat admits the sales with right to repurchase but denies the aforestated limited agreement to cultivate and avers that even prior to those sales he had already been instituted tenant by the Velaseos.

As a vendee-a-retro, Gaoat can not rightfully claim to be a tenant. And if he was, in fact, a tenant prior thereto, did his status change from that of a tenant-tiller to that of a mortgagee-cultivator? When Gaoat was allowed by the Velaseos to continue cultivating the landholdings for one more agricultural year after they had paid the greater part of their obligation, did he thereby regain his status as tenant-tiller?

These are considerations that have to be threshed out in a full-dress hearing and not merely in an interlocutory Order, in the interest of substantial justice.

In issuing the assailed Order of reinstatement, respondent Judge also apparently overlooked that the preliminary determination of the tenancy relationship between the parties by the DAR, when it certified the cases as proper for trial, is not binding on the Courts. The latter, after hearing, may confirm, reverse or modify said preliminary determination as the evidence and substantial merits of the case may warrant.[21]

WHEREFORE, the Order of reinstatement, dated May 22, 1978, issued by respondent Judge is hereby set aside, and the latter hereby directed to try the case on the merits with deliberate dispatch and render judgment accordingly.

The Restraining Order issued by this Court on January 10, 1979 is hereby lifted. No costs.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero and De Castro*, JJ.,concur.

[1] p. 114, Rollo.

[2] 115, *ibid*.

[3] p. 96, *ibid*.

[4] p. 30, *ibid*.

[5] p. 60, *ibid*.

[6] 31, *ibid.*

[7] pp. 97-98, *ibid.*

[8] p. 98, *ibid.*

[9] p. 68, *ibid.*

[10] p. 32, *ibid.*

[11] p. 33, *ibid.*

[12] pp. 34-37, *ibid.*

[13] p. 87, *ibid.*

[14] p. 99, *ibid.*

[15] p. 118, *ibid.*

[16] p. 38, *ibid.*

[17] p. 40, *ibid.*

[18] p. 43, *ibid.*

[19] *Riego vs. Riego*, 18 SCRA 91 (1966); *Jalover vs. Ytoriaga*, 80 SCRA 100 (1977); *Vda. de Potenciano vs. Gruenberg*, 4 SCRA 426, 429 (1962); *Ballesteros vs. Caoile*, 2 SCRA 529 (1961).

[20] *Alfanta vs. Noe*, 53 SCRA 76 (1973).

[21] Sec. 12, last parag., PD 946.

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