

ISMAEL CALMA, PETITIONER, VS. HON. JUDGE DOMINGO M. CABANGON, OF THE COURT OF AGRARIAN RELATIONS AND BEATRIZ VDA. DE FELICIANO, RESPONDENTS.

G.R. No. L-18664. March 31, 1964

Ponente: PAREDES, J.

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PAREDES, J.:

Respondent Beatriz Vda. de Feliciano was the owner of a parcel of riceland situated at San Agustin, Magalang, Pampanga, a portion of which, having an area of about 3-1/2 hectares, seeded to 3-1/2 cavans of palay, was tenanted by the petitioner Ismael Calma. On September 25, 1959, respondent Vda. de Feliciano presented with the Court of Agrarian Relations, Third Regional District, Sala, stationed in Tarlac, Tarlac, a verified petition for ejectment and damages, against petitioner Calma. claiming abandonment of the portion, consisting of negligence in the fulfillment of the obligations as tenant, such as preparation of the landholding; the haphazard cultivation of the fields and the seedbeds; delay in the transplanting of the seedlings, all of which prejudiced the owner, respondent Vda. de Feliciano.

Before the filing of the ejectment case, on September 23, Vda. de Feliciano sought the intervention of the Court of Agrarian Relations to see the condition of the landholding. Atty. Jose L. Santiago, of the CAR, was designated to conduct the mediation proceedings and on September 24, 1959, he rendered a report, concluding that Calma was indeed negligent.

On September 25, 1959, the very date the petition was presented by respondent Feliciano, a hearing was held for the purpose of determining whether an interlocutory order may issue, as prayed for in the petition. After the hearing, the Commissioner entered an Order, the dispositive portion of which read -

"WHEREFORE, pending the final disposition of this case on the merits, petitioner is hereby authorized to administer the planting and cultivation of the landholding in question by having it worked by hired laborers. However, petitioner is hereby required to file a bond in the amount of Five Hundred Pesos (P500.00) to answer for whatever damages the tenant may suffer as a result of this order."

The above Order was, however, amended upon ex-parte petition of respondent Feliciano, on October 7, 1959, to wit —

"x x x that the herein petition is hereby authorized to continue cultivation of the 'landholding by administration thru hired laborers. The petitioner is hereby restrained from employing or appointing a £ tenant on the landholding in question until otherwise ordered by the Court. The respondent-tenant is likewise hereby enjoined not to disturb the cultivation and administration of the landholding by the herein petitioner until otherwise directed by the Court. x x"

On October 7, 1959, petitioner Calma presented his Answer to the complaint for ejectment, making admissions and denials of the allegations contained therein and interposed defenses.

Commissioner Yumul conducted a hearing and on March 8, 1961, he submitted a Commissioner's report, recommending the dismissal of the complaint for lack of merits, the continuance of the possession of the land by the tenant and payment to him (tenant) the sum of P150.00, as attorney's fees. The CAR, however, in a decision on the merits, rendered on March 27, 1961, disposed of the controversy:

(1) authorizing the herein petitioner Beatrix Vda. de Feliciano, (Secs. 49 and 50, letters b, c, and f of Republic Act No. 1199, as amended) to eject the herein respondent from the landholding in question situated at San Agustin, Magalang, Pampanga; this authority to eject be not subject to the provisions of paragraph 4 of Section 22 of Republic Act No. 1199, as amended, in relation to Rule 18 of the CAR Rules of Court, as amended, because since September 25, 1959, the landholding has already been in the actual cultivation by the petitioner;

(2) the interlocutory order issued on September 25, 1959, as modified and amended by the Order of October 7, 1959 by the Court, thru Commissioner Quintin A. Yumul, is hereby made permanent with the modification that the herein petitioner, Beatriz Vda. de Feliciano, is hereby authorized to appoint another person to be her agricultural tenant, if she so desires, in lieu and to take the place, of the herein respondent-tenant, Ismael Calma; and

(3) directing petitioner-landholder to pay the herein respondent another amount of forty pesos (P40.00) Philippine tender in payment of his farm labor over one-third (1/3) of the landholding in addition to the amount of P37.80 already paid to him as evidenced in Exhibits "3" and "4".

Respondent Judge, in overruling the recommendation of the Commission, found as a fact that herein petitioner Calma had been negligent in the performance of his duties as tenant and had caused serious injury to the landholding that necessarily impaired its productive capacity and would continue to lie idle and cause greater damage to the owner if he would not be checked in his negligence and abandonment of his work; and that there were points and important facts of record and significant evidence which were overlooked by the Commissioner.

Petitioner moved to reconsider the decision of respondent Judge, but which was denied, and the matter is now before Us on a petition for Certiorari, on mixed questions of fact and law. Respondents, who presented separate Answer to the petition, resisted the appeal on various grounds, ranging from lack of jurisdiction of this Court to take cognizance thereof, for having been filed out of time; propriety of the interlocutory order and the sufficiency (substantiality) of the evidence to support the appealed decision.

Respondent assails the jurisdiction of this Court in taking cognizance of the case, claiming that the petition was presented outside the reglementary period. The decision appealed from was received by petitioner's counsel on April 3, 1961 (Exh. 3). On April 15, 1961, a motion for reconsideration was presented by counsel. From April 3 to 15, 1961, eleven (11) days had elapsed. The motion for reconsideration was denied on May 6, 1961 and copy thereof served to counsel on May 11, 1961. The period within which to take an appeal started to run again on May 12, 1961 and should end on May 15, 1961. The petition for certiorari was filed in this Court on May 18, 1961, which is three (3) days late. The decision, subject of review, had already become final before it was elevated to this Court. Obviously, therefore, We did not acquire jurisdiction or possess authority to review the issues presented herein.

The petition should be, as it is hereby DISMISSED, without pronouncement as to costs.

Bengzon, C. J. Padilla, Bautista Angelo, Labrador, Concepcion, Reyes J.B.L., Barrera, Regala, and Makalintal, JJ., concur.

Dizon, J., took no part.

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