

BIENVENIDO OCIER, PETITIONER, VS. THE COURT OF APPEALS AND FELIPA SAJULGA, RESPONDENTS.

G.R. No. 105088. December 11, 1992

Ponente: NOCON, J.

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NOCON, J.:

Petitioner Bienvenido Ocier questions the respondent Court's decision, promulgated October 29, 1990,[1] which affirmed the trial court's decision of June 4, 1990,[2] which ordered him to vacate private respondent's landholding when he has constantly demanded that his case be referred first to the Ministry (now Department) of Agrarian Reform for certification as to whether or not the case is proper for trial pursuant to PD 316 and its implementing rules and guidelines.

As found by the respondent court, the antecedent facts of the case are as follows:

"On May 2, 1986, the appellee filed a complaint for ejectment and collection of rentals with damages. It is alleged inter alia that the appellee is the absolute owner of a parcel of agricultural land located at Managok, Malaybalay, Bukidnon, containing an area of seven (7) hectares, more or less and more particularly described in paragraph 2 of the complaint; that in the later part of May, 1964, appellee leased three (3) hectares of said land to appellant at an agreed rental of 22 cavans (45 kilos per cavan) of clean palay per hectare each year; that appellant since April, 1982 up to November 3, 1985 has failed to pay the full rental resulting in his delinquency amounting to 3,992 kilos which valued at P3.00 per kilo amounts to P11,766.00; that on December 14, 1985, appellant sub-leased one (1) hectare of the said leased land to Nicolas Juralan for P5,000.00.

It is prayed, among others, that appellant be ordered to pay the accrued rentals, to vacate the area occupied by him under the leasehold agreement, to pay moral damages, attorney's fees and litigation expenses.

In the Answer, appellant denied the material allegations of the complaint but admitted that he was a tenant of the appellee since he was still single in 1956 until he got married in 1968 and prior to 1970, the parties observed sharing arrangement of 70-30% in favor of tenant-appellant and thereafter observed the leasehold system. Appellant set up the affirmative defenses that the appellee has no cause of action against appellant who by law is obliged to pay rentals except during crop damage due to national calamity or fortuitous events; and that this case arose out of a leasehold or tenancy relationship which is designed to harass or eject the tenant farmer and necessitates referral to the Ministry of Agrarian Reform for certification as to whether or not the case is proper for trial pursuant to P.D. 316 and its implementing rules and guidelines.

On November 18, 1986, the appellant filed a motion to refer the case to the Ministry of Agrarian Reform pursuant to P.D. 316. Opposing the aforesaid motion, appellee invoked the provisions of P.D. 816.

On March 16, 1987, the appellee filed a motion for leave to amend complaint, attaching thereto the Amended Complaint, which sought rescission in addition to the reliefs prayed for in the original complaint (basing her cause of action not on the Code of Agrarian Reforms but on the New Civil Code).

In the Order of July 23, 1987, the trial court granted the motion for leave to amend the complaint, and admitted

the Amended Complaint.

On December 2, 1987, appellant filed his Amended Answer with Counterclaim dated November 26, 1987, reiterating his affirmative defense that the subject land being devoted to rice and the appellant being an agricultural lessee therein, the case should first be referred to the Department of Agrarian Reform pursuant to Decree Nos. 316 and 946.”[3]

After due trial, the trial court rendered its judgment, applying the provisions of Article 1659 of the New Civil Code, as follows:

x x x x x x x x

"Having subleased the land to another person without the knowledge and consent of the plaintiff-lessor, defendant violated a clear prohibition provided for under the New Civil Code. Said law provides:

'The lessee cannot assign the lease without the consent of the lessor, unless there is a stipulation to the contrary.'

“Because of the foregoing, plaintiff has the right to rescind the contract of lease she had with the defendant thus:

'If the lessor or the lessee should not comply with the obligations set forth in articles 1654 and 1657, the aggrieved party may ask for the rescission of the contract and indemnification for damages, or only the latter, allowing the contract to remain in force.'"

x x x x x x x x

"In view of the foregoing, judgment is hereby rendered in favor of plaintiff and against the defendant rescinding the lessee relationship between them; ordering the defendant to vacate the property in question not later than 30 days from receipt of this judgment; to pay rental in the amount of P8,000.00, attorney's fees of P3,000.00 and litigation expenses of P83.00.”[4]

On appeal, the respondent court, however, ruled as follows:

"At the outset, We would like to make clear what law should apply to the case at bar. It is the agrarian laws, for agricultural tenancy exists in the instant case. Agricultural tenancy as defined in Section 3, Republic Act 1169, as amended by Republic Act 3844, is the physical possession by a person of land devoted to agriculture belonging to and/or legally possessed by another for the purpose of production through the labor of the farmer and of the members of his immediate farm household, in consideration of which the farmer agrees to share the harvest with the latter, or to pay a price certain or ascertainable either in produce or in money or in both. The land tenanted by the appellant may still be considered public land, but since the appellee claims ownership thereof and is the legal possessor of the same, by virtue of which she entered into a leasehold contract of tenancy with the appellant, their relationship shall be governed by the agrarian laws then in force.

Coming to the contention of appellant that the trial court could not proceed to try the case where the instant case should have been first referred to the Ministry of Agrarian Reform for determination, We hold that Presidential Decrees Nos. 316 and 946 are not applicable. Such referral is not necessary where the tenancy relationship between the parties is admitted in the pleadings. x x x.

x x x x x x x x

"WHEREFORE, premises considered, the decision appealed from is affirmed, without pronouncement as to costs.”[5]

Before this Court, petitioner now submits to Us for Our consideration the following points:

"1. The Regional Trial Court did not acquire jurisdiction over the instant case in not referring the same to the

Department of Agrarian Reform;

2. The Court of Appeals did not correctly apply P.D. 816 when it decided to oust the tenant-farmer for being remiss in the payment of amortizations;

3. The Court of Appeals did not apply the proper evidentiary rule to the case at bar."^[6]

Petitioner, citing Section 2, P.D. 316 and Sections 2 and 3, P.D. 583, claims that the referral to the Secretary of Agrarian Reform in ejectment cases involving tenant-farmers is mandatory as it tips the balance of justice in favor of the lowly-tenant farmers.^[7] And under P.D. 816, petitioner claims that what is being punished is the continuing and deliberate refusal to pay leasehold rentals which is not applicable to petitioner as there was tungro and rat infestation during the two-year period when he was unable to pay.^[8] Lastly, petitioner claims that the respondent court did not apply the proper evidentiary rules to his case as it is the private respondent who had the burden to show by clear, positive and convincing evidence that he (petitioner) refused deliberately to pay his rentals considering that this is an ejectment case involving a tenant.^[9]

Private respondent counters that petitioner deliberately refused to pay his leasehold rentals when he was able to make a harvest -- inspite of the tungro and rat infestation -- but did not share it to buy land elsewhere for agricultural purposes.^[10] Petitioner also subleased one hectare of the land in question to one Nicolas Juralan violating Section 27(2) of R.A. 3844 -- which is an additional ground for his ejectment.^[11] Since the landlord-tenant relationship of the parties is admitted, private respondent claims that referral to the Secretary of Agrarian Reform is no longer needed.^[12]

Considering that both the respondent court and the trial court decided on petitioner's ejectment from the disputed landholding but for different mutually exclusive reasons -- the respondent court with its agrarian tenancy view of the case while the trial court with its civil law lease view of the case, this Court has painstakingly reviewed the records of the case to come up with a decision in accordance with law and jurisprudence considering the allegation of petitioner that he is an agricultural tenant of private respondent.

It is already settled that the essential requisites set by law for the existence of a tenancy relationship are: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) the purpose is agricultural production; and (4) there is consideration. It is also understood that (5) there is consent to the tenant to work on the land, that (6) there is personal cultivation by him and that the consideration consists of sharing the harvest.^[13] And with respect to the landowner, We have ruled that tenancy relationship can be created only with the consent of the true and lawful landowner.^[14]

Although private respondent claims to be the landowner^[15] of the landholding involved, petitioner presented in the lower court his witness, one Mrs. Renelda Galapati, who testified^[16] that it is the "insular (should be 'national') government" which owns the disputed landholding, through the Bukidnon Agricultural College, and presented as part of his evidence a "Summary List of Rice and Corn Land,"^[17] prepared by said Mrs. Galapati in her capacity as Agrarian Reform Technologist of the Department of Agrarian Reform, showing that the disputed landholding was still under investigation by the Department of Agrarian Reform as it was "still under the Insular Government there is no title given to individual owners yet."^[18] In fact, it was petitioner's affidavit stating in essence the above,^[19] in his motion to refer the case to the Department of Agrarian Reform, which prompted^[20] private respondent to seek leave of court to amend her complaint changing her cause of action from the violation of agrarian law theory to the violation of civil law lease theory.

It seems that what We have before Us is the scenario where petitioner has been cultivating a patrimonial property of the State since 1956. He did not know it because private respondent did not tell him so. Apparently, private respondent was supposed to personally cultivate the disputed landholding as there is testimony^[21] and

evidence[22] to the effect that she and her late husband were given the disputed landholding to cultivate as part of their school training as agricultural graduates of Bukidnon Agricultural College. Instead, she hired petitioner to do so.

It is not the duty of the Court to determine findings of fact based on these different pieces of evidence; it is the trial court's duty to do so.[23] Private respondent's sudden shift in cause of action should have alerted the trial court as to her real status as landowner. The trial court should have determined whether the disputed landholding is still part of Bukidnon Agricultural College. If yes, then the same is patrimonial property of the State which is subject to disposition pursuant to Art. No. 3038.[24] The trial court should also have determined what was the nature of the assignment by Bukidnon Agricultural College to private respondent. Was it under Act No. 3038? If so, applying Sections 51(4)[25] and 66,[26] RA 3844, as amended, in relation to P.D. 152,[27] then petitioner has the preferential right to acquire the land actually tilled by him.

It is the State's policy that the actual tiller of the land shall own the land he tills.[28] In accordance with this State policy, We have no other choice but to order that this case be sent to the Agrarian Reform Adjudication Board[29] to make the necessary findings of fact so that the abovementioned State policy will be faithfully complied with.

Our discussion is not based on any of the assigned errors in the Rollo before Us, but it has evolved from an exhaustive review of all of the facts of the case. It is already settled that the Court, with its broad powers, can rule on unassigned errors as long as these will enable it to arrive at a just solution of the conflict before the Court.[30]

But even without the preceding discussion, the Court still finds for petitioner.

Private respondent, in her original complaint before the lower court, alleged that petitioner violated the Land Reform Code and could be ejected under P.D. 816. Petitioner answered that he was a tenant of private respondent. There was, at that point in time, no need of referral to the Department of Agrarian Reform as the landowner-tenant relationship was admitted.[31]

However, when private respondent's amended complaint - where she alleged violation of a civil law lease agreement - was admitted, the issue of actual tenancy - raised by petitioner in both his Answer and Amended Answer - had to be referred to the Department of Agrarian Reform for determination as this was now a genuine issue.[32]

This is very clear from P.D. 1038, which reinforced P.D. 316,[33] in its Sections 2 and 3, which read as follows:

"Section 2. No Judge of the Courts of Agrarian Relations, Courts of First Instance, City or Municipal Courts, or any other tribunal or Fiscal shall take cognizance of any ejectment case or any other case designed to harass or remove a tenant of an agricultural land primarily devoted to rice and/or corn, unless certified by the Secretary of Agrarian Reform as a proper case for trial or hearing by a Court of Judge or other officer of competent jurisdiction and, if any such case is filed, the case shall first be referred to the Secretary of Agrarian Reform or his authorized representative in the locality for a preliminary determination of the relationship between the contending parties. If the Secretary of Agrarian Reform or his authorized representative in the locality finds that the case is a proper case for the Court or Judge or other hearing officer to hear, he shall so certify and such Court, Judge or other hearing officers may assume jurisdiction over the dispute or controversy.

The preliminary determination of the relationship between the contending parties by the Secretary of Agrarian Reform, or his authorized representative, is not binding upon the Court, Judge or hearing officer to whom the case is certified may, after due hearing, conform, reverse or modify said preliminary determination, as the evidence and substantial merits of the case may warrant."

"Section 3. All cases still pending before any Court, Fiscal or other investigating body which are not yet submitted for decision or resolution shall likewise be referred to the Department of Agrarian Reform for

certification as provided in the preceding section."

The trial court did not therefore have any jurisdiction to entertain the amended complaint by private respondent in the lower court and it was grave abuse of discretion on the part of the respondent court to affirm the lower court's jurisdiction in the face of the very clear mandate of the pertinent laws as above-cited. There is no need, therefore, to discuss the other assigned errors.

WHEREFORE, premises considered, the petition is hereby GRANTED. The questioned October 29, 1990 decision of the respondent court is REVERSED and SET ASIDE. The amended complaint of the private respondent in the court a quo is hereby ordered to be TRANSFERRED to the Department of Agrarian Reform Adjudication Board for disposition in accordance with the evidence and the law.

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Campos, Jr., JJ., concur.

[1] Decision, CA-G.R. SP No. 22772-CAR, penned by Justice Celso L. Magsino, ponente, and concurred in by Associate Justices Luis A. Javellana and Filemon H. Mendoza.

[2] Decision, Civil Case No. 1654, RTC, Branch 8, 10th Judicial Region, Malaybalay, Bukidnon, penned by Judge Vivencio P. Estrada.

[3] Rollo, pp. 19-20.

[4] Op cit., pp. 2, 4; Original Record, pp. 213, 215.

[5] Op cit., pp. 21, 23.

[6] Petition, p. 7; Rollo, p. 7.

[7] Petition, p. 11; Rollo, p. 11.

[8] Petition, p. 2; Rollo, p. 2.

[9] Petition, p. 15; Rollo, p. 15.

[10] Private respondent's Memorandum, p. 1; Rollo, p. 68.

[11] Petition, p. 2; Rollo, p. 69.

[12] Petition, p. 2; Rollo, p. 69.

[13] Qua vs. Court of Appeals, 198 SCRA 236, 242 citing Hilario vs. IAC, 148 SCRA 573; De la Cruz vs. Bautista, 186 SCRA 517 and Caballes vs. Department of Agrarian Reform, 168 SCRA 247.

[14] Greza vs. Court of Appeals, 163 SCRA 39, 51.

[15] Paragraph No. 2, Complaint in Civil Case No. 1654, filed May 2, 1986 and paragraph No. 2, Amended Complaint, admitted July 23, 1987 by order of the Court a quo.

[16] TSN, March 6, 1989, pp. 2-12.

[17] Exhibit "3-Defendant," Folder of Exhibits.

[18] Op cit., p. 5.

[19] Annex "1" Motion to Refer the case to the Ministry of Agrarian Reform Pursuant To Presidential Decree No. 316; Rollo, p. 35; Exhibit "2-Defendant", Folder of Exhibits.

[20] Rollo, pp. 58, 63.

[21] TSN, March 6, 1989, pp. 7-9.

[22] Exhibit "2-Defendant"; Rollo, p. 35.

[23] FNCB Finance vs. Estavillo, 192 SCRA 514, 517.

[24] Section 1. The Secretary of Agriculture and Natural Resources is hereby authorized to sell or lease land of the private domain of the Government of the Philippine Islands, or any part thereof, to such persons, corporations or associations as are, under the provisions of Act Numbered Twenty-eight hundred and seventy-four (Now Commonwealth Act Numbered One Hundred Forty-one), known as the Public Land Act, entitled to apply for the purchase or lease of agricultural public land.

[25] "To administer and dispose of agricultural lands of the public domain under the custody and administration of the National Resettlement and Rehabilitation Administration and the Economic Development Corps of the Armed Forces of the Philippines prior to the approval of this Amendatory Act and such other public agricultural lands as may hereafter be reserved by the President of the Philippines or by law for resettlement and sale, in accordance with such terms and conditions as are set forth under this chapter: Provided, That the exercise of the authority granted herein, as well as the preceding sub-paragraph, shall not contravene public policy on the permanency of forest reserves or other laws intended for the preservation and conservation of public national and municipal forests, parks and water-sheds: Provided, further, That said authority shall not be construed to exclude the other modes of disposition of public agricultural lands under the Public Land Act nor to contravene the authority granted by law to the Department of Agriculture and Natural Resources over all public agricultural lands not covered by the Agrarian Reform Program: Provided, finally, That the Secretary of the Department of Agriculture and Natural Resources shall within a period of ten years from the approval of this Amendatory Act, release to the Department of Agrarian Reform for resettlement and sale all lands of the public domain reserved for agricultural resettlement and sale except public agricultural lands which are reserved as settlement for the national cultural minorities under the administration of the Commission on National Integrity. (Emphasis supplied)

[26] "SEC. 66. Title to Public Agricultural Land. - Upon reservation by the President of the Philippines of public agricultural land available for disposition by the [Land Authority] such land shall be surveyed, titled and transferred to the Land Bank, which shall reduce said title into individual titles for specific parcels or lots in accordance with the subdivision survey conducted by the [Land Authority] under paragraph 9 of Section fifty-one: Provided, however, That existing laws governing the acquisition of public lands shall have been complied with.

The [Land Authority] shall thereupon distribute in accordance with the provisions of this Code, each parcel or lot, subject to the terms and conditions of the Land Bank, to a beneficiary selected pursuant to Section seventy-one or in accordance with paragraph 3 of Section fifty-one, to a beneficiary selected pursuant to paragraph 3 of Section one hundred twenty-eight.

[27] Section 1. It shall be an essential condition in every application for, or grant of, agricultural lands of the public domain under the provisions of Commonwealth Act No. 141, as amended, that the applicant or his transferee shall enter and work upon, improve and cultivate the land by HIMSELF within the periods prescribed for the various modes of concession under the said Act.

Section 2. The employment or use of share tenants in whatever form for purposes of complying with the requirements of the Public Land Act regarding entry, occupation, improvement and cultivation, is hereby prohibited and any violation hereof shall constitute a ground for the denial of the application, cancellation of the grant and forfeiture of improvements on the land in favor of the government.

Section 3. Lands covered by application or grants that have been rejected, cancelled or revoked for violation of this Decree shall be disposed of to other qualified persons who will till the land themselves but the share tenant actually tilling the land shall be entitled to preferential right to acquire the portion actually tilled by him if he is not otherwise disqualified to apply for the same under the provisions of the Public Land Act. (Emphasis in Original)

[28] "Sec. 4, Art. XIII, 1987 Constitution. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the rights of small landowners. The State shall further provide incentives for voluntary land-sharing."

[29] "SECTION 13, EO 129-A (S '87). Agrarian Reform Adjudication Board. There is hereby created an Agrarian Reform Adjudication Board under the Office of the Secretary. The Board shall be composed of the Secretary as Chairman, two (2) Undersecretaries as may be designated by the Secretary, the Assistant Secretary for Legal Affairs and (3) others to be appointed by the President upon the recommendation of the Secretary as members. A Secretariat shall be constituted to support the Board. The Board shall assume the powers and functions with respect to the adjudication of agrarian reform cases under Executive Order No. 229 and this Executive Order. These powers and functions may be delegated to the regional offices of the Department in accordance with rules and regulations to be promulgated by the Board."

[30] *Vda. de Javellana vs. Court of Appeals*, 123 SCRA 299, cited in *De Leon vs. Court of Appeals*, 205 SCRA 612, 622.

[31] *Valles vs. CFI of Samar, Branch I*, 176 SCRA 804, 808; *Curso vs. Court of Appeals*, 128 SCRA 567, 573.

[32] "Pleadings that have been amended disappear from the record, lose their status as pleadings and cease to be judicial admissions." (*Director of Lands vs. Court of Appeals*, 196 SCRA 94, 100)

[33] "Section 2, P.D. 316. Unless certified by the Secretary of Agrarian Reform as a proper case for trial or hearing by a court or judge or other officer of competent jurisdiction, no judge of the Court of Agrarian Relations, Court of First Instance, Municipal or City Court, or any other tribunal or fiscal shall take cognizance of any ejectment case or any other case designed to harass or remove a tenant of an agricultural land primarily devoted to rice and corn, and if any such cases are filed, these cases shall first be referred to the Secretary of Agrarian Reform or his authorized representative in the locality for a preliminary determination of the relationship between the contending parties. If the Secretary of Agrarian Reform finds that the case is a proper case for the Court of judge or other hearing officer to hear, he shall so certify and such court, judge or other hearing officer may assume jurisdiction over the dispute or controversy."

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