

MARIANO J. SANTOS, PETITIONER AND APPELLANT, VS. ALEJANDRO DE GUZMAN, RESPONDENT AND APPELLEE.

G.R. No. 11406. April 26, 1961

Ponente: DIZON, J.

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DIZON, J.:

Appeal from the (a) decision of the Court of Agrarian Relations dated June 12, 1956, from its (b) supplemental decision dated September 17 of the same year and from (c) its order dated October 16, 1956.

On April 5, 1956 petitioner filed a petition in the Court of Agrarian Relations for the ejectment of his tenant, the respondent Alejandro de Guzman, from his landholding located at Angono, Rizal, because the same was included in a homesite subdivision duly approved by the National Planning Commission. On April 10 of the same year, respondent filed his answer, later superseded by an amended answer dated April 27 of the same year, wherein he denied that he had refused to surrender the land he was tenantry, and alleged that petitioner was requiring him to sign a document waiving his claim for indemnity. As counterclaim, he alleged the following:

"1. In or about the year 1943, after respondent was transferred from his former lot to the one now in question, the same was underdeveloped, and that respondent was compelled to construct new rice paddies (pilapil) for which he spent the sum of one hundred fifty (P150.00) pesos more or less;

"2. At the time respondent was placed in the lot now in question there were six (6) big mud puddles on the land which were caused by carabaos, and which respondent caused to be filled at his own expense in the sum of two hundred pesos (P200.00), more or less;

"3. In or about the year 1944, petitioner caused the subdivision of the portion of the lot being tilled by the respondent without notice and without paying or reimbursing the expenses incurred by the latter in developing the land so subdivided by the petitioner;

"4. In or about the year 1951, respondent caused to be leveled and converted into rice field another part of his lot with an area of one (1) hectare, more or less, for the levelling of which respondent spent five hundred pesos (P500.00); that in 1954, petitioner bulldozed and constructed on the portion so converted and developed a road running parallel and along the middle of the same all without notice and consent of the respondent;

"5. From the time of the construction of said roads respondent has been prevented from tilling that portion not occupied by the road as he was unjustly prevented by petitioner from doing so."

At the trial the parties submitted the following stipulation of facts:

"1. That the area of the entire landholding presently in the possession of tenant-respondent, Alejandro de Guzman, is 2½ hectares more or less;

"2. That the portion being taken for subdivision purposes by the owner-petitioner, Don Mariano J. Santos, is 4,000 to 5,000 square meters more or less;

"3. That the portion which is not the subject of this petition and which is not being taken by the owner

petitioner for subdivision purposes is two (2) hectares, more or less;"

After the parties had presented their evidence the court rendered the decision of June 12, 1956, the dispositive part of which reads as follows:

"IN VIEW OF ALL THE FOREGOING, the petitioner is hereby authorized to convert that portion of respondent's holding affected by the subdivision plan approved by the National Planning Commission into residential site and respondent is hereby ordered to vacate that portion of his holding and surrender possession of the same to the petitioner, after this decision has become final and executory. However, should the petitioner fail to convert that portion of respondent's holding into residential lots within one year from the finality of this decision, the respondent shall have the right to demand possession of the land and damages incurred by him because of his dispossession.

"Petitioner is hereby ordered to pay the respondent the amount of two hundred seventy six pesos (P276.00) as indemnity for the improvements introduced by the latter in his holding located near the town cemetery of Angono, Rizal.

"Let this case be set for further hearing¹ for the reception of evidence on the average normal "harvest of the respondent's former holding located near the Angono cemetery and the sharing ratio observed.

"Petitioner's and respondent's other claims are dismissed."

Pursuant to the second to the last paragraph of the decision above-quoted, further proceedings were had in the case and thereafter the court rendered the supplemental decision of September 17, 1956, awarding additional damages to the respondent.

The petition before us is not concerned with the main issue—whether the tenant of an agricultural land may be ejected from part of his landholding if the owner thereof needs the same for a homesite subdivision duly approved by the National Planning Commission. It involves only the damages awarded by the Court of Agrarian Relations to the tenant whose ejectment was authorized by the decision of June 12, 1956.

The damages awarded in the aforesaid decision were the sums of money allegedly spent by the respondent for the leveling of a portion of the land cultivated by him and the construction of dikes and paddies. The lower court found that petitioner's land near the town cemetery, cultivated by respondent, was stony and therefore gave poor harvest; that petitioner's overseer had ordered respondent to put all said land under cultivation, for which reason the latter hired three farmhands to level the land and constructed dikes; that the three farmhands worked for 18 days for the first year, 15 days for the second and 13 for the third, each receiving a wage of P2.00 per day, the total expenses amounting to P276.00. As the lower court was of the opinion that the improvements thus made were necessary and imperative to make the landholding fit for cultivation and farming, it held that respondent should be indemnified at least for the wages of the hired hands, by virtue of the provisions of Arts. 446 and 546 of the New Civil Code.

The expenses incurred by respondent are not what in law may be considered as necessary expenses; at most they could be considered as useful expenses. Necessary expenses are those made for the preservation of the property or thing upon which they have been expended. Obviously, the expenses incurred by respondent for the leveling of the land and the construction of dikes therein do not fall within this category.

Upon the other hand, useful expenses are to be refunded only to a possessor in good faith. It is already settled law in this jurisdiction that a tenant—whose possession is necessarily of a precarious character—cannot be considered as a possessor in good faith in relation to his landlord. The right of a tenant in relation to improvements of the nature of those made by respondent on petitioner's land is not to recover the cost thereof but only to take away such

improvements were it possible to do so without injury or damage to the property or thing rented or leased. (*Alburo vs. Villanueva*, 7 Phil, 277, 280-281).

With respect to the damages awarded in the supplemental decision, it appears that the lower court expressly found that in the year 1953, without any order from the court, petitioner stopped respondent from working or cultivating a portion of his land near the town cemetery, and constructed a road running thru the same for the purpose of a subdivision which was later on abandoned. This entitles respondent to indemnity.

According to Section 90 of Act 4054, as amended, which was the law in force in the years 1953 and 1954, in case a tenant is illegally dispossessed, he shall be entitled by way of indemnity to the equivalent of what would, have been his share in the harvest if he had not been illegally dispossessed. On the other hand, under Section 2, Republic Act 1199, which came into effect on August 30, 1954, the measure of indemnity is the extent of the landholder's participation in the harvest. But as the land from which respondent was unlawfully ejected in 1953 "was not put under cultivation thereafter, there was, at the time of the rendition of the decision, no appropriate means of determining the indemnity due to respondent. For this reason, the lower court held that such indemnity may be fairly assessed or fixed on the basis of "the estimated average share of the respondent and petitioner in the harvest in the holding from which he was ejected, for the three years preceding his ejection", as shown by the following stipulation submitted by the parties:

"The hearing, pursuant to such directive in the decision, was conducted on July 18, 1956. At this hearing the parties admitted that:

"1. In 1953, respondent was not able to work his holding near the cemetery. He was about to start to work on the same but he was not able to do so.

"2. The crops planted on the land were harvested in the same calendar year in which the crops were planted.

"3. The net harvests of the land in question, the sharing ratio and the landholder's share were:

Land
holder's
share

Sharing
ratio

Years
Harvest
In favor of

1947
20-08-0

5-02-0

75:25 Tenant

1948

19-00-0

3-20-0

80:20 Tenant

1949

12-16-4

2-12-0

75:25 Tenant

1950

6-22-0

1-5-0

75:25 Tenant

1951

2-15-0

0-15-1

75:25 Tenant

1952

3 1/3

0-20-5

75:25 Tenant

We find this ruling to be fair in view of the circumstances of the case.

In relation to the order of the lower court dated October 16, 1956 to the effect that its decision of June 12 of the same year had become already final when petitioner filed a motion to have the same reconsidered, it appears that said decision was incomplete because it provided that the case be set for further hearing for the reception of evidence on the average normal harvest of respondent's former holding located near the Angono cemetery. According to the record, after said additional proceedings were had, the court rendered its supplemental decision of September 17, 1956. The record does not disclose the exact date when petitioner received notice of this supplemental decision, but on September 29 of the same year, that is, 12 days from the date of the supplemental decision, he filed a motion for its reconsideration. Assuming, therefore, that petitioner received, notice of said supplemental decision on the very date it was rendered—September 17, 1956—it is clear that only 12 days had elapsed when he filed his motion for reconsideration. It appears further that the lower court denied said motion in its order of October 16, 1956, notice of which was served on petitioner on October 18 of the same year. The following day he paid the docket fees required for the filing of the petition for review with this Court and filed a

petition for extension of time to file said petition for review, which was granted. On October 29 petitioner filed another petition for extension, which was also granted, and within the extended period he filed the corresponding petition for review on October 30, 1956.

Upon the above facts, we believe that the decision of June 12, 1956 had not become final because the period of appeal should be computed from the date petitioner received notice of the supplemental decision of September 17, 1956. There was but one case before the lower court. Its first decision (of June 12, 1956) was, as already stated, incomplete, the same not having resolved one of the issues involved in the litigation. For this reason the trial had to be reopened and a supplemental decision had to be rendered. To compel petitioner to appeal, first from the decision of June 12, 1956, and again appeal separately from the supplemental decision of September 17 of the same year would have resulted in multiplicity of appeals in a single suit.

Wherefore, modified as above indicated, the decision of June 12, 1956 is affirmed in all other respects; the supplemental decision of September 17, 1956 is also affirmed, but the order of October 16, 1956 is reversed. Without costs.

Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, and Paredes, JJ., concur.

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