

CONCEPCION VDA. DE OPINION, PETITIONER, VS. SIMPLICIO BILLONES, ET AL., RESPONDENTS.

G.R. No. 11751. September 30, 1959

Ponente: PADILLA, J.

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PADILLA, J.:

In case No. 211-Iloilo, Felix Asonio, Cornelio Ignacio, Epifanio Sultan and Simplicio Billones, petitioners, vs. Concepcion Vda. de Opinion, respondent, on 1 September 1956 the Court of Agrarian Relations rendered judgment dismissing the petition and authorizing the respondent to dispossess the petitioners of their respective landholdings as of 7 June 1954, subject to the provisions of sections 21 and 22, Act No. 4054, as amended. The petitioners moved for reconsideration of the judgment and the respondent objected to the motion. On 29 September 1956 the Court set the hearing of the motion for reconsideration and the opposition thereto for 9 October 1956 at 9:00 o'clock in the morning. After hearing, on 22 October 1956 the Court denied the motion for reconsideration. On 2 November 1956 the respondent moved for execution of the judgment.

On 2 November 1956 Simplicio Billones filed in the same Court a petition against the same respondent alleging that although in case No. 211-Iloilo the respondent had succeeded in establishing that he (the petitioner) had abandoned his landholding in 1954, yet at the start of the agricultural year 1955-1956 she (the respondent) had allowed him to work his landholding as tenant, thereby a new tenancy relationship was created distinct from that which was the subject matter in case No. 211-Iloilo; that after the liquidation of the crop harvested during the agricultural year 1955-1956, he continued to work as tenant on the same landholding for the ensuing agricultural year; and that the crop of palay planted during the last agricultural year was ready for harvesting. He prayed for a writ enjoining the respondent from dispossessing him (the petitioner) of his landholding and that after hearing, the writ be made permanent (case No. 265-Iloilo). On 3 November 1956 the petitioner filed an "urgent motion ex parte for the issuance of an interlocutory order restraining the respondent, the sheriff or any of their authorized representative from ejecting the petitioner from the landholding."

Acting upon the respondent's motion for execution of 2 November 1956 in case No. 211-Iloilo and taking into consideration the allegations and prayer of the petition in case No. 265-Iloilo, on 5 November 1956 the Court entered an order in the first mentioned case directing the clerk of court to issue a writ of execution against the petitioners Felix Asonia, Cornelio Ignacio and Epifanio Sultan but staying execution of the judgment against the petitioner Simplicio Billones. On the next day, acting upon the petitioner's urgent motion ex parte of 3 November 1956, the Court entered an order in case No. 265-Iloilo directing the therein respondent to maintain peacefully the herein petitioner as tenant and to refrain from dispossessing him of his landholding. On 17 November 1956 the respondent filed an answer to the petition in the second case.

On 17 November 1956 the respondent filed a motion for reconsideration of the order of 5 November 1956 in the first case. On 25 November 1956 Simplicio Billones, one of the petitioners therein, filed an opposition to the foregoing motion. On 4 December 1956 the Court denied the motion for reconsideration. The respondent filed a notice of appeal dated 20 December 1956 in the Court of Agrarian Relations.

In her petition filed in this Court, she claims that the order of 5 November 1956 staying execution of the judgment in case No. 211-Iloilo against the respondent herein, then one of the petitioners in the court below, which judgment already was final and executory, and that of 4 December 1956 denying, her motion for reconsideration, constitute a grave abuse of discretion; that as there is no other plain, speedy and adequate remedy in the ordinary course of law available to her, she prays that the orders complained of be annulled and set aside; that the judgment of the respondent court dated 1 September 1956 in case No.-211-Iloilo be ordered executed as against the herein respondent Billones and the corresponding writ of execution issued therefor; and that she be granted other just and equitable relief,

The reason why the herein respondent Simplicio Billones was not dispossessed of his landholding up to the agricultural year 1955-1956 was because the judgment ordering such dispossession was entered only on 1 September 1956 in case No. 211-Iloilo. The fact that he continued in possession of his landholding up to 1955-1956, because no judgment had been rendered ordering that he be dispossessed thereof, standing alone is not a sufficient proof that a new tenancy relationship had been entered into by and between him and the landowner. The second" petition filed by the herein respondent Simplicio Billones (case No. 265-Iloilo) cannot legally prevent the issuance of a writ of execution in case No. 211-Iloilo where the judgment rendered had become final and executory.

The writs of certiorari and mandamus prayed for are granted, with costs against the respondent Simplicio Billones.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

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