

FERMIN LACAP, ET AL., PETITIONERS, VS. HON. PASTOR L. DE GUZMAN, ETC., ET AL., RESPONDENTS.*G.R. No. 12597. August 31, 1960*

Ponente: BAUTISTA ANGELO, J.

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On June 28, 1955, Lourdes Gaddi, respondent herein, filed with the Court of Industrial Relations a petition praying that she be authorized to convert a portion of her riceland into a fishpond (Case No. 452-Pampanga). In view of the abolition of the Tenancy Division of the Court of Industrial Relations and the creation of the Court of Agrarian Relations, the case was transferred from the former to the latter as provided for in Section 7 of Republic Act No. 1267, as amended by Republic Act No. 1409.

Of the fourteen (14) tenants tilling the land, five of them, who are the petitioners herein, opposed the conversion alleging that the land is not fit for fishpond purposes because the water entering it is not salty and the milkfish (bangus) would not grow. They further alleged that as the water that irrigates it is fresh the dalag fish would thrive and would eat the bangus fry.

At the trial it was established that the land in question has an area of 55 hectares; that before the war this land was a fishpond, the owner having spent P10,000.00 for the construction of the dikes; that it was once leased at P20,000.00 a year; that after the war it was converted into riceland but the biggest harvest it has yielded is 800 cavans a year; that a fishpond with a smaller area adjoining the land yielded a gross income of P36,000.00 in 1956; that if the land is to be reconverted into a fishpond, the owner may realize an income of P40,000.00 a year; and that in spite of the claim of petitioners that the land is good for rice, it was found to be better for fishpond by an expert of the Bureau of Fisheries in the ocular inspection made of the premises upon order of the court.

Hence, on May 27, 1957, the agrarian court rendered decision the dispositive part of which is as follows:

"Wherefore, the Court hereby grants authority to petitioner to reconvert her rice land located at Sepong Balete, Macabebe, Pampanga, into a fishpond and is hereby also given authority to eject the respondent-tenants therefrom with the condition, however, that if within two years the said landholding is not reconverted into a fishpond the said respondent-tenants, upon their petition to the Court and after due hearing, may be ordered reinstated as such tenants with the corresponding damages by reason of their dispossession."

On May 29, 1957, before the decision had become final respondent Lourdes Gaddi filed an urgent motion seeking to open the flood gates of the land in order to allow salty water to enter it as an initial step in the conversion of the land because, according to her, if she could not take advantage of the entrance of the salty water, she will have to wait for another month before she could avail of the same. The following day, May 30, 1957, the court issued an order granting the motion.

Petitioners now come before this Court contending (1) that the agrarian court erred in authorizing their ejectment from their landholding by reason of the authority granted to the landowner to convert the land into a fishpond; and (2) that the court erred in ordering the immediate execution of the decision before it has become final and

executory.

While the conversion of riceland into fishpond is not one of the causes, for dispossession of a tenant under, Section 50 of Republic Act 1199, we however find the order of the agrarian court authorizing the conversion justified it appearing that by effecting said conversion the landowner would obtain greater yield or income than treating it merely as a riceland. This is authorized by Section 25 of the same Act which provides:

"Sec. 25. Rights of the Landholder:

(1) The landholder shall have the right to choose the kind of crop and the seeds which the tenant shall plant in his holdings: Provided, however, That if the tenant should object, the court shall settle the conflict, according to the best interest of both parties."

The issue herein involved is not new. It has been raised recently in the case of *Ramona Escoto de Miranda vs. Hon. Pastor P. Reyes*, 103 Phil., 207) wherein this Court granted a landowner the authority to convert her riceland into fishpond under the authority of said legal provision. In that case we made the observation that if the tenant could not be retained in connection with the operation of the fishpond because of his lack of know-how or the requisite qualification for the new work, he may be given at least a portion of land similar in nature and area so that he may not be unemployed. We wish to make the same suggestion with regard to the five tenants herein involved. If they have been loyal in the past and have the requisite qualifications, we find no plausible reason why they should not be retained in the service by the landholder.

The contention that the order of the agrarian court allowing the landowner to open the flood gates of the land in order to allow salty water to enter as an initial step in its conversion as a fishpond is tantamount to an execution of the judgment, is untenable. The authority is merely a precautionary measure since it appears that if that opportunity is allowed to pass the salty water may not reappear until sometime afterwards. This is an opportunity which the landowner wants to take advantage of in view of the requirement of the court that she should do the conversion within two years from the decision. We find no abuse of discretion in granting the authority now disputed by petitioners.

Wherefore, with the modification above adverted to insofar as the retention of petitioners herein as tenants or guards if feasible, the decision appealed from is affirmed, without pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Gutierrez David, JJ., concur.

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