

TOMAS FERNANDO, PLAINTIFF AND APPELLANT, VS. LUIS ABALOS, CONRADO ABALOS, HON. COURT OF AGRARIAN RELATIONS, RICARDO L. CASTELO AS PROVINCIAL SHERIFF, EX-OFICIO OF NUEVA ECIJA, D...

G.R. No. 12759. May 27, 1959

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from an order of the Court of First Instance of Bulacan, Hon. Eulogio Mencias, presiding, dismissing the plaintiff's complaint.

Plaintiff brought this action as landowner against tenants Luis Abalos and Conrado Abalos, the Court of Industrial Relations and the provincial sheriff of Nueva Ecija to annul a judgment of the Court of Agrarian Relations in its cases Nos. 838 and 839 NE, Carlos Abalos and Luis Abalos vs. Tomas Fernando, ordering the latter to restore plaintiff to the possession of a parcel of land subject of the action, and to pay Carlos Abalos 28% cavanese of palay and Luis Abalos 31.64 cavanese of palay. The grounds upon which the action for annulment of the judgment is based are: (a) that the Court of Agrarian Relations had no jurisdiction to try and decide the case and (b) that the writ of execution for the above-mentioned judgment had caused damages to Tomas Fernando in the amount of P5,000.00.

The action was filed on November 26, 1956 and on December 12, 1956, the court dismissed the action. Upon motion of plaintiff, however, the court reconsidered its former order of dismissal and issued a writ of preliminary injunction against the sheriff of Nueva Ecija to stop it from executing the judgment of the Court of Agrarian Relations. The provincial sheriff and the Court of Agrarian Relations moved to reconsider the order of the Court of First Instance setting aside its previous order of dismissal, on December 24, 1956 and on December 28, 1956, respectively. On January 12, 1957 Luis Abalos and Conrado Abalos also filed a joint motion to dismiss. Counsel for Tomas Fernando filed replies to the above motions for dismissal.

On February 19, 1957, the court denied the motions for dismissal. Thereupon the parties filed their respective answers, the provincial sheriff on March 9, 1957, Luis Abalos and Conrado Abalos on March 11, 1957. On March 11, 1957, Luis and Conrado Abalos presented a motion for the reconsideration of the order denying their motions to dismiss and so did the Court of Agrarian Relations on March 16, 1957. The motion for reconsideration presented by the defendants Abalos was set for hearing on March 20, 1957, that of the Court of Agrarian Relations, on March 23, 1957. Counsel for Tomas Fernando filed his opposition to the motions for reconsideration on March 22, 1957. On April 2, 1957 counsel for the Court of Agrarian Relations also presented a motion to reconsider the order setting aside the dismissal and counsel for Tomas Fernando answered this motion on April 5, 1957. The Court of Agrarian Relations replied to the answer of Tomas Fernando by its pleading of April 8, 1957.

It further appears that on April 15, 1957, Judge Mencias was transferred and assigned to Rizal. Notwithstanding

this assignment he issued an order on April 30, 1957, dismissing the original petition, setting aside his previous order of February 19, 1957 as well as its order for a writ of preliminary injunction. The order of dismissal is dated at "Pasig, Rizal for Malolos, Bulacan, April 30, 1957." The first question raised on this appeal is whether Judge Mencias who was transferred to Rizal on April 15, 1957 still had the right to issue its order of dismissal dated April 30, 1957, when he was already holding court in Pasig, Rizal. The second question refers to the sufficiency of the complaint which was dismissed by the order of Judge Mencias on April 30, 1957. The legal authority for Judge Mencias to decide the action instituted by Tomas Fernando against Luis Abalos and others, Civil Case No. 1414, Court of First Instance of Bulacan, is Section 51 of Republic Act No. 296, as amended by Republic Act No. 1404, which provides as follows:

"Whenever a judge appointed or assigned in any province or branch of a court in a province shall leave the province by transfer or assignment to another court of equal jurisdiction without having decided a case totally heard by him and which was duly argued of opportunity given for argument to the parties or their counsel, it shall be lawful for him to prepare and sign his decision in said case anywhere within the Philippines and send the same by registered mail to the clerk of the Court to be filed in the court as of the date when the same was received by the clerk, in the same manner as if the judge had been present in the court to direct the filing of the judgment: Provided, however, That if a case has been heard only in part, the Supreme Court, upon petition of any of the parties to the case and the recommendation of the respective district judge, may also authorize the judge who has partly heard the case to continue hearing and to decide said case notwithstanding his transfer or appointment to another court of equal jurisdiction."

The argument of appellant Tomas Fernando against the validity of the order of Judge Mencias is predicated on Section 51 of Republic Act No. 296, as previously amended by Republic Act No. 1186. It reads as follows:

"SEC. 51. Detail of judge to another district or province.— When ever a judge stationed in any province or branch of a court in a province shall certify to the Secretary of Justice that the condition of the docket in his court is such as to require the assistance of an additional judge, or when there is any vacancy in any court or branch of a court in a province, the Secretary of Justice may, in the interest of justice, with the approval of the Supreme Court and for a period of not more than three months for each time, assign any judge of any other court or province whose docket permits his temporary absence from said court, to hold sessions in the court needing such assistance, or where such vacancy exists. No judge so detailed shall take cognizance of any case when any of the parties thereto objects and the objection is sustained by the Supreme Court."

Counsel for Tomas Fernando has evidently overlooked the fact that Section 51 of Republic Act No. 296, as amended by Republic Act No. 1186, was subsequently amended by Republic Act No. 1404, which was approved on September 9, 1955, as above-quoted. Under the provisions of this last amendment it is apparent that Judge Mencias had the right to issue the order of dismissal of the action filed by Tomas Fernando against Luis Abalos and others. Besides, when the proceedings started in the Court of First Instance of Bulacan by the filing of the present action on November 26, 1956, Republic Act No. 1404 had already been approved and all the proceedings had in the case took place after its promulgation.

As to the correctness of the order of Judge Mencias dismissing the cause of action, plaintiff-appellant argues that the decision of the Court of Agrarian Relations is null and void for the reason that the case, which originally started in the Court of Industrial Relations, in its Tenancy Division, could not be transferred to the Court of Agrarian Relations. Continuing the argument it is claimed that as the action between the Abalos, complainants, and Tomas Fernando, defendant, occurred in the year 1952-1953, at which time the Court of Agrarian Relations did not yet exist because this Court was created only on June 14, 1955 by Republic Act No. 1267, the case could not be transferred to the latter court, because the case is not within the jurisdiction of the Court of Agrarian Relations. This argument is based on the language of Republic Act No. 1267, as amended by Section 5 of

Republic Act No. 1409, which was made effective on September 9, 1955.

"SEC. 7. Jurisdiction of the Court.—The Court shall have original and exclusive jurisdiction over the entire Philippines, to consider, investigate, decide, and settle all questions, matters, controversies or disputes involving all those relationships established by law which determine the varying rights of persons in the cultivation and use of agricultural land where one of the parties works the land: Provided, however, That cases pending in the Court of Industrial Relations upon approval of this Act which are within the jurisdiction of the Court of Agrarian Relations, shall be transferred to, and the proceedings therein continued in, the latter court."

The apparent meaning of the above-quoted provision is that those cases which started in the Court of Industrial Relations, because the Court of Agrarian Relations had not yet been established when they were pending in the Court of Industrial Relations, should be transferred to the latter court. If we were to follow the argument of counsel for the appellant to the effect that the original case of "Luis Abalos and Carlos Abalos vs. Tomas Fernando" may not be transferred to the Court of Agrarian Relations, because when the action was instituted the Court of Agrarian Relations did not yet exist and therefore the action is not within the jurisdiction of the said agrarian court, there would be no meaning to the above-quoted provision of Section 7 of Republic Act No. 1409. The intention, precisely, of Republic Act No. 1409, is to transfer cases then pending in the Court of Industrial Relations to the Court of Agrarian Relations. The pending cases were those, like the one in which the judgment sought to be annulled was rendered, brought before the Court of Industrial Relations before the creation of the Court of Agrarian Relations. The argument of counsel for plaintiff-appellant would lead to a clearly absurd proposition not contemplated by the intention of the legislature.

The judgment of dismissal appealed from is hereby affirmed, with costs against plaintiff-appellant.

Paras, C. J. Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion, and Endencia, JJ., concur.

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