

DOMINADOR VERGEL DE DIOS, PETITIONER, VS. THE HON. COURT OF APPEALS, SPECIAL THIRTEENTH DIVISION, VALENTIN SARMIENTO, AND REYNALDO (REGINO) VENTURINA, RESPONDENTS.*G.R. No. 127623. June 19, 1997*

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-127623/>**MENDOZA, J.:**

In 1991, petitioner Dominador Vergel de Dios filed ejectment suits against private respondents Valentin Sarmiento and Reynaldo (Regino) Venturina. Originally brought in the Regional Trial Court, Branch VII of Malolos, Bulacan, the cases were eventually referred to the Department of Agrarian Reform Adjudication Board (DARAB) of Region III and there docketed as DARAB Case Nos. 248 and 283, on the ground that they involve primarily agrarian disputes.

In DARAB Case No. 248 (*De Dios v. Sarmiento and Venturina*), petitioner alleged that he was the owner of a two-hectare farm in Barangay Calawitan, San Ildefonso, Bulacan under agricultural lease to private respondent Valentino Sarmiento; that sometime in 1988, respondent Sarmiento abandoned the landholding by selling his rights thereto to respondent Reynaldo Venturina; and that Sarmiento did not pay rentals, while Venturina refused to surrender the landholding to petitioner. In DARAB Case No. 283 (*De Dios v. Venturina*), petitioner claimed that Venturina had been cultivating an area of 3.75 hectares without his knowledge and consent and without paying any rent. The land was formerly under leasehold to one Jose Salonga who, before his death on July 5, 1988, had allegedly sold his rights to private respondent Reynaldo Venturina without petitioner's consent.

In a decision dated October 28, 1992, the Provincial Adjudicator declared the agricultural leasehold relationship between petitioner and respondent Sarmiento extinguished and accordingly ordered respondent Venturina to vacate the landholding in question and to turn over its possession to petitioner. The Provincial Adjudicator gave credence to petitioner's claim that Sarmiento had abandoned the landholding by selling his tenancy rights to Venturina based on petitioner's evidence.

On appeal, the DARAB reversed on the ground that petitioner's evidence, on which the Provincial Adjudicator had relied for his decision, was, with respect to petitioner's affidavit, self-serving, and, with regard to the affidavits of his witnesses (Ramon Santiago, Francisco Pullarca, and Diosdado Villanueva), "too good to be true." The DARAB also disregarded as hearsay Manuel Villanueva's affidavit, stating among others that the sale of Sarmiento's tenancy rights was known to the residents of the barangay. Neither the barangay captain nor the chairperson of the Barangay Agrarian Reform Committee (BARC) was presented to attest to this fact. The DARAB instead gave weight to the declaration of Pio Sarmiento that his father Valentin had tilled the land since 1972 but that because of old age had to relinquish its cultivation to him (Pio Sarmiento), not to Reynaldo Venturina, and that they had paid all the yearly rentals except for one (1) year when there was a devastating typhoon.

With regard to Venturina, the DARAB found him to be the lawful tenant of the 3.75 hectare lot formerly

cultivated by Jose Salonga on the basis of a DAR certification issued on April 27, 1993 which stated that Venturina had been in actual cultivation of the 3.75 hectare lot owned by petitioner since 1984; the testimony of Josefina Venturina Bravo, administrator of the Victorias Ricemill at Bongay, Calawitan, that the rentals consisting of 60 cavans per year had been deposited by Venturina with the ricemill since 1984 and that all the rentals up to 1988 had been withdrawn by petitioner; the declaration of Melencia Toledo, a palay trader of Barangay Calawitan, that from 1989 up to 1992, Venturina had been depositing lease rentals for petitioner which were all withdrawn by petitioner; and the receipts for 60 cavans of palay each for 1992 and 1993 signed by petitioner on December 9, 1993 and December 16, 1993, respectively. The DARAB held that while at the outset, petitioner may have been the unwilling lessor, his non-action, considering his own witnesses' declaration that Venturina's cultivation of the subject landholding was well-known in the community, and his acceptance of the rentals constituted acquiescence on his part.

The DARAB therefore dismissed the complaints for lack of evidence, ordered the Municipal Agrarian Reform Officer of San Ildefonso, Bulacan to place the property under formal leasehold in favor of Valentin Sarmiento's son Pio by reason of Valentin's advanced age and to prepare and execute a leasehold contract over the 3.75 hectares between petitioner and Venturina.

Petitioner moved for a reconsideration, but his motion was denied by the board in a resolution received by petitioner on July 31, 1996. On August 9, 1996, petitioner moved for an extension of 15 days, until August 24, 1996, within which "to file a petition for certiorari" in the Court of Appeals. On August 23, 1996, he filed his petition, denominated as "one for review by way of appeal by certiorari."

In its resolution dated August 30, 1996, however, the Court of Appeals denied the motion for extension (1) on the ground that the "petition for certiorari" which petitioner intended to file was not the proper remedy and (2) for violation of Circular No. 28-91, because the certification against forum shopping was executed not by petitioner himself but by petitioner's counsel. In another resolution dated September 18, 1996, the appellate court dismissed petitioner's petition for having been filed late. Unknown to the Court of Appeals, petitioner had filed on September 13, 1996 a motion for reconsideration of the resolution dated August 30, 1996 denying his motion for extension. The motion was denied on November 15, 1996 along with the motion for reconsideration of the resolution of August 30, 1996. Hence this petition for certiorari.

Petitioner alleges that the Court of Appeals committed grave abuse of discretion in denying his motion for extension on the grounds that the petition "which petitioner intended to file is not the proper remedy" and for violating Circular No. 28-91. He points out that the petition he actually filed on August 23, 1996 satisfies the requirements for a petition for review under Circular No. 1-95, par. 6.

Petitioner's contention is well-taken. The Court of Appeals was rather hasty in concluding that petitioner was going to file a petition for certiorari solely on the basis of petitioner's allegation that he was going to file a petition for certiorari. It should have reserved judgment on the matter until it had actually received the petition especially considering that petitioner's motion for extension was filed well within the reglementary period for filing a petition for review. The very fact that petitioner sought an extension of time should have alerted the Court of Appeals to the possibility that what petitioner really intended to file was a petition for review. As it turned out, what petitioner actually filed was a petition for review which complies with all the requirements for such a petition under Circular No. 1-95, par. 6, to wit: a statement of the full names of the parties to the case, a statement of the material dates to show that it was filed on time, a statement of the nature of the action (one "for review by way of appeal by certiorari"), and a summary of the proceedings before the Provincial Adjudicator and the DARAB. Under the heading "Discussion," the petition contains an analysis of the evidence, while attached to the petition are certified true copies of the assailed decision and resolution of the DARAB and a properly executed

certification against forum shopping.

The DARAB is made a respondent, a feature of a petition for certiorari, but this fact should have been treated merely as innocuous and should not have been allowed to detract from the true consideration of the petition as a petition for review. (Tuazon v. Court of Appeals, 234 SCRA 25 (1994))

The Court of Appeals moreover committed grave abuse of discretion in applying the requirement of Circular No. 28-91 for a certification against forum shopping to petitioner's motion for extension. Under this circular, such certification is required "in every petition filed with the Supreme Court or Court of Appeals." Obviously, a motion for extension is not the petition spoken of in this provision. While such certification may be attached to a motion for extension and, in such a case, may be considered as compliance with the rules even if none is attached to the petition subsequently filed, the reverse does not follow. Petitioner's failure to have a properly executed certification against forum shopping attached to his motion for extension is not fatal, considering that the proper certification was later attached to his petition at the time of its filing.

WHEREFORE, the petition is GRANTED and the resolutions dated August 30, 1996, September 18, 1996, and November 15, 1996 of the Court of Appeals are SET ASIDE and petitioner's petition for review in the Court of Appeals is REINSTATED.

SO ORDERED.

Regalado, (Chairman), Romero, Puno, and Torres, Jr., JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.