

**CEFERINO MARCELO, PLAINTIFF AND APPELLANT, VS. NAZARIO DE LEON, DEFENDANT AND APPELLEE.***G.R. No. 12902. July 29, 1959*

Ponente: BENGZON, J.

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The plaintiff has appealed from the order of Judge Jose N. Leuterio of the Nueva Ecija court of first instance, dismissing his complaint whereby he had asked that defendant be required to vacate a parcel of land and to pay damages. The dismissal rested on two grounds, (a) the case pertained to the Court of Agrarian Relations; and (b) as attorney-in-fact of the true owner of the land, the plaintiff had no right to bring the action.

The record discloses that on February 4, 1957, Ceferino Marcelo, filed in the justice of the peace court of San Antonio, Nueva Ecija, a complaint to recover possession of a lot of 2,000 square meters belonging to Severino P. Marcelo (who had given him a full power-of-attorney) which was held by defendant "on the understanding that one-half of all the products raised in the occupied area, would be given" to the landowner. The complaint alleged that after plaintiff had assumed the administration of Severino Marcelo's properties, defendant delivered the products corresponding to the owner; but when in September 1956, plaintiff notified defendant that in addition to giving half of the produce, he would have to pay a rental of two pesos per month, the latter refused, and continued refusing to pay such additional charges. Wherefore, complainant prayed for judgment ordering defendant to leave the premises and to pay damages and costs.

The defendant questioned the court's jurisdiction, arguing that the matter involved tenancy relations falling within the authority of the Agrarian Court; he also challenged the capacity of plaintiff to sue. He lost in the justice of the peace court; however, on appeal to the court of first instance, he raised the same issues on a motion to dismiss, and then his views prevailed.

In this appeal, plaintiff insists he merely filed ejectment or detainer proceedings, which fall within the justice of the peace court's jurisdiction. He claims the lot to be residential, and not agricultural. On this point, His Honor noted that "the land covered by the title of plain tiff's principal covers an area of 59,646 square meters situated in the barrio of San Mariano, San Antonio, Nueva Ecija. This land obviously is agricultural, and it is too much to presume that barrio folks would occupy an area of 2,000 square meters more or less of land for a residence. The cultivation of the land by the defendant and the sharing of the products thereof with the owner of the land characterize the relationship between the defendant and the plaintiff's principal as one of landlord and tenant."

Indeed, from the allegations of the complaint, one could conclude that defendant had physical possession of the land for the purpose of cultivating it and giving the owner a share in the crop. This was agricultural tenancy of the kind called "share tenancy". In judging this relationship, the 2-pesos-a-month-rental alleged in the complaint may be disregarded, because defendant never having agreed to such imposition, it may not be held a part of the compensation payable for holding the land. The circumstance that defendant built a dwelling on the agricultural lot does not ipso facto make it residential—considering specially that the dwelling—photograph submitted with

brief—does not occupy more than 80 square meters of the 2,000 square meters occupied by him.

In this connection, plaintiff argues as follows:

"The defendant does not till or cultivate the land in order to grow the fruit bearing trees because they are already full grown. He does not even do the actual gathering of the fruits. He merely supervises the gathering, and after deducting the expenses, he gives one-half of the fruits to the plaintiff all in consideration of his stay in the land. He is not, therefore, a tenant within the meaning of that term as used in Republic Act No. 1199 for 'A tenant shall mean a person who, himself and with the aid available from within his immediate farm household, cultivate the land for purposes of production . . .'"

Anyone who has had fruit trees in his yard, will disagree with the above description of the relationship. He knows the caretaker must water the trees, even fertilize them for better production, uproot weeds and turn the soil, sometimes fumigate to eliminate plant pests, etc. Those chores obviously mean "working or cultivating" the land. Besides, it seems that defendant planted other crops, (i. e. cultivated the lot) giving the landowner his corresponding share.

Now, the statutes provide that 'All cases involving dispossession of a tenant by the landholder \* \* \* shall be under the original and exclusive jurisdiction of such court as may now or hereafter be authorized by law to take cognizance of tenancy relations and disputes". Sec. 2, Republic Act 1199); and the court (Agrarian Relations) "shall have original and exclusive jurisdiction to consider, investigate, decide and settle all questions and matters 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". (Sec. 7, Republic Act 1267 as amended by Republic Act 1409.)

In *Tumbagan vs. Vasquez*, Lr-8719, July 17, 1956, we impliedly held that where a farmhand occupies agricultural land and erects a house thereon, the tenancy relationship continues subject to tenancy laws—not to those governing leases.

In fact, the Agricultural Tenancy Law (Republic Act 1199) requires the landholder to give his tenant an area wherein the latter may construct his dwelling (sec. 26), of course without thereby changing the nature of their relationship, from landowner and tenant to lessor and lessee.

At any rate, this action must fail upon the second ground of defendant's motion to dismiss: the plaintiff is a mere apoderado of the owner,' Severino P. Marcelo.[1] The rule is that every action must be prosecuted in the name of the real party in interest, (sec. 2, Rule 3).

However, plaintiff quotes that part of sec. 1 of Rule 72, permitting "the legal representative" of any landlord to bring an action of ejectment, and insists in his right now to litigate. Supposing that "legal representative" as used in sec. 1, includes attorneys-in-fact, we find that plaintiff's power attached to the complaint, authorizes him to sue for and in the name of Severino Marcelo, to "pursue any and all kinds of suits and actions for me and in my name in the courts of the land". This action is not in the name of plaintiff's principal.

For all the foregoing, the appealed order is affirmed with costs chargeable against appellant.

Paras, C. J., Padilla, Montemayor, Bautista Angelo, Concepcion, Endencia, and Barrera, JJ., concur.

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[1] *Arroyo vs. Granda*, 18 Phil., 484; *Hilario vs. La Congregacion*, 27 Phil., 593.

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