

LOLIHALA SABERON LERCANA, PETITIONER, VS. PORFERIO JALANDONI, ANTONIO MAYORGA, RENATO MAHINAY, VIRGILIO TOPACIO, JOVITO SARADAT, JULIO TINAMBACAN, SALVADOR EGE, SILVANO INOFERIO...

G.R. No. 132286. February 01, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us is a petition for review[2] seeking the reversal of the decision dated August 14, 1997, of the Court of Appeals in CA-G.R. C.R. No. 41463, affirming the decision of the Department of Agrarian Reform Adjudication Board in DARAB Case No. 2830 which, in turn, had reversed the decision of the Department of Agrarian Reform Provincial Adjudication Board of Negros Oriental in DARAB Case No. NEG-VII-159-90.

The facts of the case are as follows:

Gregorio Pajuelas, grandfather of petitioner Lolihala S. Lercana, was the owner of an agricultural land with an estimated area of nineteen (19) hectares, located in Barangay Salug, Siaton, Negros Oriental. It was mortgaged by Lolihala's mother, Bruna Saberon, and was redeemed by Rodolfo Aspilla, who planted sugarcane and hired respondent Porferio Jalandoni, among other laborers, to work on the land. In 1976, Aspilla's sugarcane production failed. Aspilla then appointed Jalandoni as overseer and authorized him to install other respondents as tenant-tillers, who devoted the property to corn production. Respondents gave Aspilla, through Jalandoni, the owner's shares of the corn produce in "tercio" basis, in favor of the tenants. Jalandoni also gave to Aspilla the owner's share from the copra produce on the same "tercio" basis. Aside from corn, respondents planted auxiliary crops like cassava and other vegetables.

On August 21, 1972, Aspilla mortgaged the subject property to the Philippine Veterans Bank (PVB) as security for a loan. Because Aspilla failed to redeem the mortgage, it was foreclosed on October 25, 1978. On June 26, 1980, the title covering the property was consolidated under TCT No. HT-1906 in the name of PVB.

Not knowing about the ownership transfer, respondents continued to give to Aspilla his share of the harvest until 1984, when Aspilla left for Kuwait. Thereafter, the share was given to Aspilla's children, who visited the property every harvest time.

In August 1989, petitioner appeared, claimed ownership of the land for allegedly having bought it from PVB and demanded from each of the respondents the owner's share of the land produce. Not satisfied, petitioner and her relatives eventually took over and cultivated the land.

Herein respondents as plaintiffs below filed a complaint for reinstatement and damages against petitioner before the Department of Agrarian Reform (DAR) Provincial Adjudication Board (PARAD), Negros Oriental. The complaint was dismissed, thus:

WHEREFORE, this Board renders judgment DISMISSING the Complaint and Counterclaims for insufficiency of evidence and does hereby:

- DECLARE the Plaintiffs not tenants nor agricultural lessees of the Philippine Veterans Bank, present owner of the subject property;
- DECLARE Plaintiffs not entitled to reinstatement and damages;
- DECLARE all the Plaintiffs, Defendant, her brother Eduvegio Saberon, her cousins Norma Radoc, Iluminada Futralan, and the other Hrs. of Gregorio Pajuelas, prospective beneficiaries of the subject property in the precedence as mentioned above; and
- DIRECT the Municipal Agrarian Reform Officers of DAR Office, Siaton, Negros Oriental, to identify the lot at the eastern portion of subject property not included in the mortgage by Ms. Bruna Saberon to Rodolfo Aspilla, to identify the western portion mortgaged by Ms. Bruna Saberon to Rodolfo Aspilla, and to identify all the Plaintiffs and the Hrs. of Gregorio Pajuelas who qualify as beneficiaries pursuant to the provisions of Section 22, RA 6657, in relation to Section 6 of the same Code, and to submit their report on the matter to this Board for approval.

SO ORDERED.[3]

Respondents appealed to the Department of Agrarian Reform Adjudication Board (DARAB) which on June 27, 1995, reversed and set aside the PARAD decision, thus:

WHEREFORE, finding reversible errors in the decision, dated July 30, 1993, so appealed from, the same is hereby REVERSED and SET ASIDE, and a new one is, thus, rendered:

- Declaring Plaintiffs-Appellants Porferio Jalandoni, Antonio Mayorga, Renato Mahinay, Virgilio Tupacio, Jovito Sa[r]adat, Julio Tinambacan, Salvador Ege, Silvano Inoferio, Rosito Panoy, Matosalem Caylan, Rodolfo Catacutan, Hedrio Sabino, Roque Rolyan, Raymundo Ege, Antonio Lanojan, and Anderson Sinto to be the de jure or bona fide agricultural tenants and/or actual tillers on the entire subject landholding designated as Lot No. 471, covered by TCT No. HT-1906, situated at Barangay Salag, Siaton, Negros Oriental and containing an estimated area of nineteen (19) hectares, more or less;
- Directing Defendant - Appellee, along with the other Heirs of the late Gregorio Pajuel[a]s including Rafael Saberon, Cesario Saberon, Wilfredo Saberon, Eduvegio Saberon, Esterlina S. Estosata, Iluminada Futralan and her seven children: Norma Radoc and Emiliano Radoc, being not the lawful tenants or actual tillers or occupants thereof, to immediately vacate the entire landholding in question and peacefully surrender their actual possession and cultivation thereof and to REINSTATE to the said entire landholding the Plaintiffs-Appellants and maintain them in the peaceful possession and exclusive cultivation of their respective farmholdings therein;
- Sentencing the Defendant - Appellee to pay and indemnify to the Plaintiffs-Appellants the amount of Twenty Thousand Pesos (P20,000.00) as exemplary damages to serve as an example for the public good and to pay the costs of suit; and
- Leaving the determination of the identification and selection of prospective CARP beneficiaries over the subject landholding and other matters involving strictly the administrative implementation of Republic Act No. 6657 affecting the subject landholding to the Department of Agrarian Reform Offices in Siaton, Negros Oriental and in Dumaguete City.

SO ORDERED.[4]

In rendering the foregoing decision, the DARAB recognized that the disputed property had already been offered to the DAR for coverage through the Comprehensive Agrarian Reform Program (CARP) under its Voluntary

Offer to Sell Scheme, such that, it was not true that petitioner acquired ownership thereof in 1989. Further, it found that application papers for potential CARP beneficiaries have been processed since September 19, 1989 by the Municipal Agrarian Reform Office of Siaton, Negros Oriental.

Petitioner filed with the Court of Appeals a petition for review raising as issues 1) whether the property in dispute referred to the entire landholding of Gregorio Pajuelas; 2) whether the subject property was mortgaged or sold to Rodolfo Aspilla; and 3) whether respondents were tenants in the subject property. The Court of Appeals resolved the issues in favor of respondents, thus:

WHEREFORE, with MODIFICATION deleting the award of exemplary damages in the amount of P20,000.00 the decision of the Department of Agrarian Reform Adjudication Board subject of the petition is AFFIRMED. There is no pronouncement as to costs.

SO ORDERED.[5]

In affirming the DARAB, the Court of Appeals said that petitioner's contention that only the western portion of the subject property was given to Aspilla and that the same was merely mortgaged and not sold was not supported by adequate evidence. The fact remained that the entire landholding was mortgaged by Aspilla to the PVB and for his failure to pay the loan, the mortgage was foreclosed and the property sold to PVB. The appellate court also declared that the DARAB did not err when it found respondents the tenants of the subject property.

Petitioner's motion for reconsideration was denied, hence this petition where petitioner raises the following issues:

I

WHETHER OR NOT PETITIONER AND HER RELATIVES WHO ARE HEIRS OF GREGORIO PAJUELAS HAVE PROVEN BY ADEQUATE OR SUFFICIENT EVIDENCE THEIR OCCUPATION AND TILLAGE OVER THE EASTERN PORTION OF THE SUBJECT LANDHOLDING.

II

WHETHER OR NOT PETITIONER AND HER RELATIVES WHO ARE HEIRS OF GREGORIO PAJUELAS HAVE SHOWN SUFFICIENT EVIDENCE AS BENEFICIARIES OF THE SUBJECT LANDHOLDINGS IN ACCORDANCE WITH THE PROVISION OF CARL.[6]

Simply put, the issues concern (1) the occupation and tillage over the eastern portion of the land by petitioner and her relatives; and (2) their qualification as beneficiaries under the Comprehensive Agrarian Reform Program (CARP).

Petitioner admits that the issues raised are factual, hence not proper subject for review in this petition. However, she alleges that this case falls under one of the exceptions because the Court of Appeals' factual findings conflict with the evidence on records and the factual findings of the trial court, here the quasi-judicial board which heard the case, namely the PARAD.

On the first issue, regarding respondents' tenancy, the Court of Appeals affirmed the DARAB's finding that respondents were the actual occupants and tillers of the entire subject landholding. This finding, according to petitioner, is in complete variance with the PARAD's finding that respondents were not tenants nor agricultural lessees on the disputed property. Petitioner asserts that she and her relatives have always remained on the one-half eastern portion of the land, cultivating the same peacefully, openly and uninterruptedly, before and after the western portion was mortgaged. This, according to petitioner, is supported by Jalandoni's testimony that in 1976, when Aspilla gave Jalandoni the authority to install tenants, Jalandoni occupied three (3) hectares while Mahinay,

Mayorga and Ege, the other installed tenants, occupied one hectare each. This means that Aspilla occupied a total area of only 6 hectares, confirming petitioner's contention that only one-half of the entire subject landholding was mortgaged. Petitioner adds that respondents' submissive acceptance, when told by petitioner that she had become the owner of the land, was a manifestation of respondents' own doubt on their status. Lastly, DARAB Sheriff Edwin L. Badon, who also actually conducted an ocular inspection of the property, declared that an estimated area of 8 hectares, which formed part of the entire 19 hectare-landholding, was under the tillage of Lolihala and relatives. All these substantially prove, said petitioner, that she and her relatives had remained on the eastern portion of the property.

In their comment, respondents aver that the Court of Appeals did not err in finding that respondents are the tenants over the entire property subject of this case. This finding, they insist, is supported by substantial evidence, the quantum of evidence required in agrarian cases. They add that between the findings of the DARAB and the Provincial Adjudication Board, those of DARAB must be given more weight, especially since they are affirmed by the Court of Appeals. Respondents also maintain that the authority to identify bonafide farmer beneficiaries of the CARP, is an exclusive prerogative of the DAR Secretary, through his authorized field personnel. Between his findings on the matter and those of the Provincial Agrarian Reform Adjudication, those of the Secretary prevail.

Considering the contentions of the parties, we are convinced that the present petition lacks merit. Petitioner's averments and evidence before us are insufficient to compel review, much less reversal, of the appellate court's decision. In *Tan vs. Lim*, 296 SCRA 455, 468 (1998), we held that this Court does not, of itself, automatically delve into the record of a case to determine the facts anew in all cases where there is disagreement between the findings of fact by the trial court and the Court of Appeals. When the disagreement is merely on probative value of the evidence, i.e. which is more credible of two versions, we limit our review to only ascertaining if the findings of the Court of Appeals are supported by the records. So long as the findings of the appellate court are consistent with, which is also to say not palpably contrary to, the evidence on record, we shall decline to make a review on the probative value of such evidence. The findings of fact of the Court of Appeals, and not those of the trial court, will be considered in such a case final and conclusive even on this Court.[7]

Coming now to the present controversy, in our view, the finding of the appellate court, affirming the DARAB's own findings, that respondents are the tenants of the entire property in question, is supported by the evidence on record. The testimony of Galoy Ezoy,[8] petitioner's own witness and a neighbor of the Pajuelas, shows that the disputed property was originally owned by Gregorio Pajuelas and later on by Dodong Aspilla.[9] Aspilla then appointed Porferio Jalandoni and company to work on the land. Ezoy further testified that petitioner and her relatives started to work on the land only when the case was filed. His testimony was not refuted by petitioner. Furthermore, the certifications of the Barangay Agrarian Reform Committee (BARC) Chairman and Municipal Agrarian Reform Officer of Barangay Salag, Siaton, Negros Oriental, state that petitioner and her relatives were not the actual occupants and tillers on the subject landholding, and that they only took over the property in 1990 when they entered and occupied it by force and threats.[10] These certifications carry the presumption of regularity in their issuance, but petitioner did not show any evidence to overcome that presumption.[11] Also, the certification of DARAB Sheriff Edwin L. Badon cited by petitioner to contradict the abovesited two certifications, merely attest to the actual cultivation and occupation of petitioner and her relatives at the time of the pendency of the case at the DARAB, but not of the time when they actually started cultivating the land.[12] Said certification did not concern, much less corroborate, petitioner's allegation that she and her relatives have always remained in the eastern portion of the property, even after the mortgage. Thus, we conclude that the Court of Appeals' finding, adopting that of the DARAB, was sufficiently supported by evidence on record.

On the second issue tendered by the petition, it appears to us that the proper administrative official must resolve

first the question of beneficiaries under CARP. The Court of Appeals, in adopting the findings of the DARAB, did not declare respondents as beneficiaries under the Comprehensive Agrarian Reform Program (CARP) in relation to the disputed landholding. The DARAB, in the dispositive portion of its decision, left to the concerned DAR Offices the determination of who are or should be the CARP beneficiaries.[13] At this juncture, petitioner ought to be reminded only that the identification and selection of CARP beneficiaries are matters involving strictly the administrative implementation of the CARP,[14] a matter exclusively cognizable by the Secretary of the Department of Agrarian Reform,[15] and beyond the jurisdiction of the DARAB.[16] Properly speaking, the matter of CARP beneficiaries is not an issue before us.

WHEREFORE, finding no reversible error committed by the Court of Appeals, the instant petition is DENIED for lack of merit. The assailed decision dated August 14, 1997, of the Court of Appeals is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., concur.

[1] Silvano signed as “Enoferio” in their complaint at the Department of Agrarian Reform Adjudication Board, Region, VII, p. 5.

[2] Rollo, pp. 8-25.

[3] CA Rollo, p. 59.

[4] Id. at 81-82.

[5] Rollo, pp. 120-121.

[6] Id. at 16. CARL stands for Comprehensive Agrarian Reform Law.

[7] Hermo vs. Court of Appeals, G.R. No. L-45159, 155 SCRA 24, 27 (1987).

[8] Also Galo Isoy in the RTC records, p. 176.

[9] Nickname for Rodolfo Aspillá, RTC records, p. 183.

[10] Rollo, pp. 220-221.

[11] Sec. 3, Rule 131 of the Revised Rules of Court: The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

xxx

(m) That official duty has been regularly performed.

[12] Rollo, p. 37.

[13] Id. at 79.

[14] Section 12, P.D. No. 946: Jurisdiction over Subject Matter. - The Courts of Agrarian Relations shall have original and exclusive jurisdiction over:

x x x

Provided, however, That matters involving the administrative implementation of the transfer of the land to the

tenant-farmer under Presidential Decree No. 27 and amendatory and related decrees, orders, instructions, rules and regulations, shall be exclusively cognizable the Secretary of Agrarian Reform, namely:

x x x

(2) identification of tenant-farmers and landowners, and determination of their tenancy relationship.

[15] Section 1, Rule II, DARAB, Revised Rules of Procedure: Primary, Original and Appellate Jurisdiction. The Agrarian Reform Adjudication Board shall have primary jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes, cases, controversies, and matters or incidents involving the implementation of the Comprehensive Agrarian Reform Program under Republic Act No. 6657, Executive Order Nos. 229, 228 and 129-A, Republic Act No. 3844 as amended by Republic Act No. 6389, Presidential Decree No. 27 and other agrarian laws and their implementing rules and regulations.

Specifically, such jurisdiction shall extend over but not be limited to the following:

x x x

Provided, however, that matters involving strictly the administrative implementation of the CARP and agrarian laws and regulations, shall be the exclusive prerogative of and cognizable by the Secretary of the DAR.

[16] Section 1, Rule II, DARAB, Revised Rules of Procedure.

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