

LUCIANA SASES AND CALIXTO SASES, PETITIONERS, VS. HON. PASTOR P. REYES, ASSOCIATE JUDGE, COURT OF AGRARIAN RELATIONS, HILARIO SEGUI, AND AGUEDO RACINES, RESPONDENTS.

G.R. No. 13268. July 30, 1960

Ponente: PADILLA, J.

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PADILLA, J.:

Severino Talagtag and Jose Maranilla, respondents, Luciana Sases and Calixto Sases, intervenors, the dispositive part of which reads as follows:

On 3 June 1957 the Court of Agrarian Relations, Sixth Regional District, sitting at Legaspi, Albay, rendered judgment in CAR Case No. 16-Albay, Hilario Segui and Aguedo Racines, petitioners, vs.

Wherefore, respondent Severino Talagtag is hereby ordered to vacate and surrender the holdings in question to petitioners Hilario Segui and Aguedo Racines.

Respondents Jose Maronilla and Severino Talagtag and intervenors Luciana Sases and Calixto Sases are hereby ordered to maintain Aguedo Racines and Hilario Segui in the peaceful possession of their respective holdings situated at Barrio Bololo, Libon, Albay, with all the rights and obligations imposed by law.

The right is hereby reserved to the petitioners to file a separate action for damages against respondent Severino Talagtag.

The counterclaim of respondents Severino Talagtag and the herein intervenors are hereby dismissed for lack of merit.

Respondents Jose Maronilla and Severino Talagtag and the intervenors Luciana and Calixto Sases are hereby given thirty (30) days from receipt of a copy of this decision to avail of the necessary legal procedure for the appointing of a receiver who shall receive for safekeeping the shares from the harvest pertaining to the owner of the holdings in question, pending final determination of Civil Case No. 1493 of the Court of First Instance of Albay (Annex A).

The foregoing judgment having become final, on 19 July 1957 the petitioners were placed in possession of the land. On 1 August 1957 the petitioners filed a petition alleging that on 20 July, the day following that when they had been placed in possession of the land, respondent Severino Talagtag, intervenor Luciana Sases, and their privies or agents named Juan Sazon and Anastacio Reforzado, entered upon, threatened the petitioners with bodily harm, and chased them out of the land, and that during the pendency of the case respondent Severino Talagtag erected or built on the land two houses and a small store made of light materials, and praying that the respondent Talagtag, intervenor Luciana Sases and their agents be punished for contempt and that the two houses and small store be demolished (Annex B). On 17 August the Commissioner set the petition for hearing on 3 September at 8:30 a.m. (Annex C). On 1 September respondent Talagtag averred in his answer that he would surrender the land

after the harvest of the crop in November 1957, in accordance with the spirit of section 9, Republic Act No. 1199 (as amended by Republic Act No. 2263), or should the petitioners want to take immediate possession of the land he should be indemnified for his labor and expenses, as provided for in section 22, paragraph 4, Republic Act No. 1199 (as amended by Republic Act No. 2263). In their answer Juan Sazon and Anastacio Reforzado prayed that as they were not parties to the case the petition for contempt as to them be dismissed (Annex D). On 22 October, an amicable settlement was entered into by and between respondent Talagtag and the petitioners whereby, for and in consideration of P150 to be paid by the petitioners to the respondent for the standing crop, the latter would surrender to the former the possession of the land and agreed not to molest or disturb them in the possession thereof (Annex E). Acting upon the amicable settlement on 24 October the Court entered an order, the dispositive part of which is as follows:

Whereof, respondent Severino Talagtag as well as intervenors Luciana Sases and Calixto Sases are hereby ordered to deliver possession of the landholding in question described in paragraph 2 of the petition dated June 22, 1956 to petitioners Aguedo Racines and Hilario Segui upon payment of the amount of P150.00 as provided in paragraph 3 of the amicable settlement. Petitioners are hereby authorized, should they so desire, to take in or employ new tenant of their own choice. There being no other issue before the Court to resolve, let this case be as it is hereby, considered closed and terminated with the exception of petitioners' "Motion to Demolish Improvements" dated August 1, 1957 which by agreement of the parties, have previously been set for hearing on October 26, 1957 at 9:00 o'clock a.m., Legaspi, Albay (Annex F).

Upon learning of the last order (Annex F), on the same day the intervenors moved for reconsideration of that part of the order allowing the petitioners "to take in or employ new tenant of their own choice" for that would be violative of the provisions of section 24, paragraph 3, Republic Act No. 1199. On 26 October, after hearing of the petition for the demolition of the improvements where the petitioners were absent despite notice of the hearing served upon them, the Court entered an order which directs the following:

Wherefore, it appearing that respondent Severino Talagtag has already been ejected for cause and the decision in this case having been executed pursuant to the amicable settlement entered into between the parties on October 22, 1957, said respondent as well as the herein intervenors are hereby ordered to remove the house in question and other improvements made thereon, if any, upon the expiration of forty-five (45) days following the finality of this order pursuant to sub-paragraph 3 section 22, Republic Act No. 1199 (Annex H).

On 23 November the motion for reconsideration dated 9 November of the order of 26 October was denied (Annex J.)

Upon the foregoing facts, the herein petitioners, intervenors in the Court below, pray that the order of 24 October allowing the respondents Segui and Racines, petitioners in the Court below, "to take in or employ new tenant of their own choice" and that of 26 October ordering the demolition of the two houses and a small store made of light materials be annulled.

The judgment rendered by the respondent Court in CAR Case No. 16-Albay, already final and executory, the dispositive part of which is copied at the beginning of this opinion, did not grant the herein respondents, petitioners in the Court below, the right "to take in or employ new tenant of their own choice," and the same being violative of section 24, paragraphs 2 and 3, Republic Act No. 1199, would be reversed, if appeal therefrom had been taken by the herein petitioners, intervenors in the Court below. No such appeal has been taken. The motion for reconsideration of the order of 24 October 1957 filed on the same day, as claimed by the herein petitioners, does not exist, because Annex G referred to in paragraph 9 of the petition as the motion for reconsideration of the order of 24 October 1957 is one dated 9 November 1957 for reconsideration of the order of 26 October 1957 authorizing the demolition of the houses. Such being the case the order of 24 October 1957 became final as no

appeal had been taken therefrom within fifteen days as provided for in section 13, Republic Act No. 1267, as amended by Republic Act No. 1409.

Likewise, the order of 26 October 1957 authorizing the demolition of the houses which is contrary to the provisions of section 13, Rule 39 of the Rules of Court, made applicable to execution of judgments rendered by the Court of Agrarian Relations, as provided for in section 12, Republic Act No. 1367, as amended by Republic Act No. 1409, because where the judgment to be executed is to place the prevailing party in possession of the litigated property, if the restitution, restoration or placing of the prevailing party in possession of the litigated property cannot be carried out without destroying, demolishing or removing the improvement made by the defeated party or his agent on the litigated property, such destruction, demolition or removal can only be made by special order of the Court after due hearing and upon failure of the defeated party to remove the improvements within a reasonable time to be fixed by the Court,[1] has become final, as no appeal had been taken therefrom within fifteen days, as provided for in Republic Act No. 1267, as amended by Republic Act No. 1409. The motion for reconsideration dated 9 November 1957 of the order of 26 October 1957 was filed within the 15-day period. The motion was denied on 23 November 1957, as claimed by the respondents, or on 28 November 1957, as alleged by the herein petitioners. The instant petition assuming that it is not for a writ of certiorari but an appeal from the order complained of, as provided for in section 13, Republic Act No. 1267, as amended by Republic Act No. 1409, was filed on 16 December 1957. Without counting the period that had elapsed from notice of the order to the filing of the motion for reconsideration, and starting from 28 November 1957, the date of notice of the order, to 16 December 1957, the date of the filing of the instant petition, 18 days had elapsed, or beyond the 15-day period provided for in section 13, Republic Act No. 1267, as amended, for the perfection of an appeal.

The petition for review is dismissed, without pronouncement as to costs.

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

[1] Section 13, Rule 39.

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