HEIRS OF GERONIMO RESTRIVERA, GAVINO LEVARDO, CANDIDO MALABANAN, REYNALDO RESTRIVERA AND FLORENTINO SANTIAGO, PETITIONERS, VS. SALVADOR DE GUZMAN, DAMIAN DE GUZMAN, DEOGRACIAS D...

G.R. No. 146540. July 14, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] dated July 31, 2000 and Resolution[2] dated December 26, 2000 of the Court of Appeals in CA-G.R. SP No. 54267, entitled "Heirs of Geronimo Restrivera, Gavino Levardo, Candido Malabanan, Reynaldo Restrivera and Florentino Santiago vs. Department of Agrarian Reform Adjudication Board (DARAB), Salvador De Guzman, Damian de Guzman, Deogracias De Guzman, and Zenaida De Guzman Chavez, as heirs of the late Pedro Ermitaño."

The factual antecedents as borne by the records are:

On June 26, 1994, Geronimo Restrivera,[3] Gavino Levardo, Candido Malabanan, Reynaldo Restrivera and Florentino Santiago, petitioners, filed with the Office of the Provincial Agrarian Reform Adjudicator (PARAD) at Trece Martires, Cavite, a complaint[4] for maintenance of peaceful possession with prayer for the issuance of a writ of preliminary injunction. Impleaded as respondents were Salvador De Guzman, Damian De Guzman, Deogracias De Guzman, and Zenaida De Guzman-Chavez, heirs of Pedro Ermitaño, docketed as Regional Case No. IV-CA-229'94.

Earlier, a similar complaint was filed with the PARAD by Leonarda Mercado, Ricardo Biloy, Remigio Reyes and Andres Ermitaño against respondents, docketed as Regional Case No. IV-CA-147'93.

Forthwith, the two (2) cases were consolidated.

On December 12, 1995, the Provincial Adjudicator rendered a Joint Decision, the dispositive portion of which reads:

> "WHEREFORE, based on the findings of the Board, JUDGMENT is hereby rendered:
>
> - Finding and declaring all the complainants in the above-entitled cases not bona fide tenants on the property in question;
>
> - Denying them the right to security of tenure thereby declaring them not entitled to reinstatement or to be maintained in the peaceful possession and cultivation of their alleged areas of cultivation;
>
> - In a proper case, directing them to vacate and surrender their possession and cultivation to the defendants-landowners.

SO ORDERED."

The above-named petitioners and Leonarda Mercado, et al. appealed to the Department of Agrarian Reform Adjudication Board (DARAB). Petitioners' appeal was docketed as DARAB Case No. 6086, while that of Leonarda Mercado, et al. was docketed as DARAB Case No. 6060.

Meantime, on January 29, 1998, or during the pendency of petitioners' appeal to the DARAB, Tricom Development Corporation (TRICOM), one of the herein respondents, filed a motion for intervention in DARAB Case No. 6060. TRICOM alleged that it has legal interest in the subject landholding, having purchased the same from respondents, as shown by a Deed of Assignment dated January 29, 1990 and a Deed of Sale on Installments dated August 17, 1992. However, the DARAB, in its Order dated September 29, 1998, denied TRICOM's motion.

On October 5, 1998, the DARAB rendered a Joint Decision reversing the assailed Provincial Adjudicator's Joint Decision, declaring all petitioners and Leonarda Mercado, et al. as bona fide tenants and directing respondents to maintain the latter in peaceful possession and cultivation of the landholding.

Respondent TRICOM, on October 20, 1998, filed consolidated motions for reconsideration of the DARAB Order dated September 29, 1998 denying its motion for intervention; and for substitution praying that it should be substituted as party defendant in place of respondents on the ground that it has acquired the subject property from them.

Meantime, on November 11, 1998, petitioners filed a motion for execution of the DARAB Decision dated October 5, 1998 which, according to them, has become final and executory.

Eventually, the DARAB promulgated its Resolution dated March 4, 1999 granting respondent TRICOM's motion for intervention and holding in abeyance the effectivity of its Decision, thus:

> "WHEREFORE, finding the grounds for intervention to be meritorious and supported by substantial evidence, this Board hereby reconsiders its Order dated September 29, 1998 and the same is hereby SET ASIDE and Tricom is allowed to intervene. The parties are hereby directed to file an answer or comment to movant's Intervention dated January 14, 1998.
>
> In the meantime, the Decision of this Board dated October 5, 1998 is hereby held in abeyance subject to further amendments thereof until all substantive rights of the parties over the subject landholding had been fully ascertained by this Board considering that the Motion for Intervention was filed before said decision was rendered.
>
> SO ORDERED."

On April 8, 1999 and June 1999, petitioners filed two urgent motions to resolve their motion for execution, but were denied by the DARAB. This prompted petitioners to file with the Court of Appeals a petition for mandamus praying that the DARAB be ordered to issue a writ of execution of its final and executory Decision.

On October 4, 1999, respondent TRICOM filed with the DARAB a supplementary motion for intervention alleging that the subject land is not covered by the Comprehensive Agrarian Reform Program (CARP) as it was classified as industrial by the Sangguniang Panlalawigan of Cavite in its Resolutions Nos. 40 and 105 dated March 14, 1980 and March 25, 1988.

On December 27, 1999, the DARAB rendered a modified Joint Decision withdrawing its previous Decision of October 5, 1998 and ordering petitioners and Leonarda Mercado, et al. to vacate the subject property in favor of TRICOM, thus:

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> "WHEREFORE, premises considered, the appealed decision is hereby MODIFIED in the sense that the complainants-appellants are hereby directed to vacate the premises in favor of the herein intervenor Tricom Development Corporation. The decision of this Board dated October 5, 1998 is now considered superseded by this decision and the same is hereby withdrawn.
>
> SO ORDERED."

As a consequence, petitioners filed with the Court of Appeals an amended petition for certiorari, prohibition and mandamus with prayer for the issuance of a temporary restraining order and a writ of preliminary injunction.

On July 31, 2000, the Appellate Court rendered a Decision affirming the assailed DARAB Decision dated December 27, 1999, thus:

> "The petition lacks merit.
>
> In regard to the first ground, it is manifest that the consolidated decision dated October 5, 1998 (Rollo, pp. 57-65) had not become final. Its effectivity was ordered held in abeyance subject to further amendments as pronounced in DARAB Resolution dated March 4, 1999 (Rollo, p. 101, supra.) owing to TRICOM's motion for intervention. The consolidated Decision dated October 5, 1999 refers to both DARAB cases DCN-6060 and DCN-6086.
>
> The motion for reconsideration filed seasonably by respondent TRICOM of the Order dated September 29, 1998 denying their motion for intervention was pursuant to Rule VIII, Section 12 of the DARAB New Rules of Procedures. TRICOM's motion for intervention was allowed to be filed at any time before the rendition of final judgment pursuant to the ruling of the Supreme Court in Lichauco vs. Court of Appeals (63 SCRA 123). x x x:
>
> x x x
>
> In this connection, Rule XII, Section 1 of the DARAB Rules provides that execution shall issue only upon final order or decision, to wit:
>
> 'Section 1. Execution Upon Final Order or Decision. Execution shall issue upon an order, resolution or decision that finally disposes of the action or proceeding.'
>
> Hence, since the consolidated decision dated October 5, 1998 never became final and executory by virtue of DARAB Resolution dated March 4, 1999, there can be no issuance of a writ of execution thereon.
>
> On the second ground, We find and so hold that respondent TRICOM's intervention in DCN-6060 is essentially an intervention also in DCN-6086 since the two cases had been earlier already consolidated in the PARAD of Cavite (Rollo, p. 70). Respondent TRICOM cannot be faulted for filing a motion for intervention in DCN-6060 only since it had notice of DCN-6086 only after January 18, 2000 when it requested to be furnished with pleadings or processes relative to DCN-6086 (Rollo, p. 106). x x x.
>
> We also take note that the petitioners did not disclose in their original petition for mandamus dated August 10, 1999 (Rollo, p. 29) that the consolidated decision dated October 5, 1998 had been held in abeyance per DARAB Resolution dated March 4, 1999 of which they were furnished copy as shown by the record (Rollo, p. 98). Such failure on their part to disclose this matter which is indubitably material and relevant puts in question their credibility.
>
> On the third ground, x x x. The assailed Decision which is in the nature of an amended judgment is a follow-through of the March 4, 1999 DARAB Resolution.
>
> We find no grave abuse of discretion on the part of public respondent DARAB in issuing the questioned Decision. x x x.

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> Finally, the failure of the petitioners to file a motion for reconsideration of the DARAB Decision dated December 27, 1999 is fatal to their cause. x x x.
>
> WHEREFORE, for lack of merit, the petition is DISMISSED and the assailed decision is AFFIRMED.
>
> SO ORDERED."

Petitioners filed a motion for reconsideration but was denied by the Appellate Court in a Resolution dated December 26, 2000.

Hence, this petition for review on certiorari. Petitioners ascribe to the Court of Appeals the following errors:

> "1. RESPONDENT COURT OF APPEALS ERRED IN FINDING THAT THE
>
> CONSOLIDATED DECISION DATED OCTOBER 5, 1998 IN DARAB CASE NOS. DCN-6060 AND DCN-6086 NEVER BECAME FINAL AND EXECUTORY BECAUSE ITS EFFECTIVITY WAS HELD IN ABEYANCE BY DARAB RESOLUTION DATED MARCH 4, 1999.
>
> "2. RESPONDENT COURT OF APPEALS ERRED IN FINDING THAT
>
> RESPONDENT TRICOM'S INTERVENTION IN DARAB CASE NO. DCN 6060 IS ESSENTIALLY AN INTERVENTION ALSO IN DARAB CASE NO. DCN 6086 DESPITE THE FACT THAT NO INTERVENTION WAS FILED BY TRICOM IN CASE NO. DCN 6086.
>
> "3. RESPONDENT COURT ERRED IN FINDING THAT THE DARAB
>
> DECISION DATED DECEMBER 27, 1999 WHICH IS IN THE NATURE OF AN AMENDED JUDGMENT IS A 'FOLLOW THROUGH' OF THE MARCH 4, 1999 DARAB RESOLUTION.
>
> "4. RESPONDENT COURT ERRED IN FINDING THAT PETITIONERS'
>
> FAILURE TO FILE A MOTION FOR RECONSIDERATION OF THE DARAB DECISION DATED DECEMBER 27, 1999, IS FATAL TO THEIR CASE.
>
> "5. RESPONDENT COURT ERRED IN FINDING THAT THERE WAS NO
>
> GRAVE ABUSE OF DISCRETION ON THE PART OF RESPONDENT DARAB IN ISSUING THE QUESTIONED DECISION DATED DECEMBER 27, 1999."

Petitioners basically contend that the DARAB acted without or in excess of jurisdiction or with grave abuse of discretion (1) in granting respondent TRICOM's motion for intervention and (2) in suspending the effectivity of its Decision dated October 5, 1998 and then withdrawing it despite its finality.

At the outset, it bears stressing that the amended petition for certiorari, prohibition and mandamus with prayer for the issuance of a temporary restraining order and a writ of preliminary injunction filed by petitioners with the Court of Appeals is not the proper remedy in assailing the Decision of the DARAB. What petitioners should have filed is a petition for review pursuant to Rule 43 of the 1997 Rules of Civil Procedure, as amended.[5]

Whether respondent TRICOM's
Motion for Intervention is proper.

Assuming that certiorari is the proper remedy, we find no grave abuse of discretion committed by the DARAB in granting respondent TRICOM's motion for intervention. In the same vein, the Court of Appeals did not err in upholding the assailed Resolution dated March 4, 1999 of the DARAB allowing respondent TRICOM to intervene.

Fundamentally, the allowance or disallowance of a motion to intervene is addressed to the sound discretion of the court. The permissive tenor of the rules shows the intention to give to the court the full measure of discretion in permitting or disallowing the intervention. The discretion of the court, once exercised, cannot be reviewed by certiorari nor controlled by mandamus save in instances where such discretion has been so exercised in an arbitrary or capricious manner.[6] However, such instances are not present in the case at bar.

Section 1, Rule 19 of the 1997 Rules of Civil Procedure, as amended, provides:

> "SECTION 1. Who may intervene. – A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or in interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding."

In Cariño vs. Ofilada,[7] we defined "legal interest" as follows:

> "The interest contemplated by law must be actual and material, direct and immediate, and not simply contingent or expectant; it must be in the matter in litigation and of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment. The words 'an interest in the subject' means a direct interest in the cause of action as pleaded, and which would put the intervenor in the legal position to litigate a fact averred in the complaint, without the establishment of which plaintiff could not recover."

Here, respondent TRICOM's legal interest in the subject property cannot be disputed. As shown by the Deed of Assignment dated January 29, 1990 and the Deed of Sale on Installments dated August 17, 1992, respondents transferred and sold to respondent TRICOM the subject landholding. As a purchaser, respondent acquired an interest in the property, and thus, has standing to intervene to protect such interest.

Indeed, the right of intervention should be accorded to any one having title to property "which is the subject of litigation, provided that his right will be substantially affected by the direct legal operation and effect of the decision, and provided also that it is reasonably necessary for him to safeguard an interest of his own which no other party on record is interested in protecting."[8]

Now, coming to the issue of timeliness of respondent TRICOM's motion for intervention, petitioners contend that since it was filed after the finality of the DARAB Joint Decision, the same should not have been granted by the DARAB. We do not agree.

Section 2 of the same Rules, provides:

> "SECTION 2. Time to intervene. – The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties."

In the instant case, respondent TRICOM's motion for intervention was filed on January 29, 1998 or before the DARAB rendered its Decision on October 5, 1998. Clearly, the motion for intervention was seasonably filed.

Whether TRICOM's motion for
intervention suspends the effectivity
of the DARAB Decision dated
October 5, 1998.

Petitioners assail the DARAB Resolution dated March 4, 1999 holding in abeyance the effectivity of its Joint

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Decision dated October 5, 1998. In the same Resolution, the DARAB held that it has yet to ascertain all the rights of the parties, specifically that of respondent TRICOM whose motion "was filed before said decision was rendered." It must be recalled that the DARAB initially denied respondent's motion for intervention in its Order dated September 29, 1998. On March 4, 1999, the DARAB issued its Resolution reconsidering its Order and granting respondent's motion for intervention. At that point, the right of respondent TRICOM as an intervenor had not yet been determined. Hence, the DARAB did not err nor act with grave abuse of discretion in suspending the effectivity of its Joint Decision dated October 5, 1998 (which was subsequently modified) in order to resolve whether or not respondent TRICOM's claim has merit.

Indeed, it is imperative in the higher interest of justice, to suspend the effectivity of the DARAB Decision dated October 5, 1998. To execute such judgment by declaring petitioners herein as bona fide tenants and possessors would certainly result in grave injustice to respondent TRICOM, the rightful owner of the subject landholding. We have held that "the court may modify or alter its judgment to harmonize the same with justice."[9]

In sum, we hold that petitioners' resort to certiorari is misplaced. And granting that certiorari is the proper remedy, the Court of Appeals correctly ruled that the DARAB, in allowing respondent TRICOM's intervention as well as withdrawing its Decision dated October 5, 1998 and suspending its effectivity, did not commit any grave abuse of discretion.

WHEREFORE, the petition is DENIED. The assailed Decision dated July 31, 2000 and Resolution dated December 26, 2000 of the Court of Appeals in CA-G.R. SP No. 54267 are hereby AFFIRMED. Costs against petitioners.

SO ORDERED.

Vitug, (Chairman), Corona, and Carpio-Morales, JJ., concur.

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[1] Penned by Justice Portia Aliño-Hormachuelos and concurred in by Justice Ma. Alicia Austria-Martinez, now Justice of this Court, and Justice Elvi John S. Asuncion. Annex "A" of the Petition for Review on Certiorari, Rollo at 27-38-A.

[2] Annex "B", id. at 39-41.

[3] Upon Geronimo Restrivera's death on January 28, 2000, he was substituted as petitioner by his heirs.

[4] The complaint alleges that Pedro Ermitaño, respondents' predecessor, was the owner of an agricultural land situated in Bgy. Maguyam, Silang, Cavite. This land was tilled and cultivated by petitioners. They paid lease rentals to Ermitaño. After the death of Ermitaño, respondent Salvador de Guzman and the other heirs ordered petitioners to surrender their landholding to them. Thereafter, they had a fence built around the land and armed men were posted to guard it. This prompted petitioners to file the above complaint praying for the restoration of their peaceful possession and the determination of their lease rentals.

[5] Section 1, Rule 43 of the 1997 Rules of Civil Procedure, as amended, provides:

> "SECTION 1. Scope. - This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the x x x Department of Agrarian Reform under Republic Act No. 6657, x x x.

[6] San Miguel Corporation vs. Sandiganbayan, G.R. Nos. 104637-38 and 109797, September 14, 2000, 340

SCRA 289, 325, citing Section 2 (b), Rule 12 of the Rules of Court and Big Country Ranch Corp. vs. Court of Appeals, 227 SCRA 161 (1993).

[7] G.R. No. 102836, January 18, 1993, 217 SCRA 206, 216, citing Garcia vs. David, 67 Phil. 279, 284 (1939), and Magsaysay-Labrador vs. Court of Appeals, 180 SCRA 266 (1989).

[8] Santiago Land Development Corporation vs. Court of Appeals, G.R. No. 106194, August 7, 1997, 276 SCRA 674, 678, citing Bily vs. Board of Property Assessment Appeals & Review, 44 A. 2d 250, 251, 353 Pa. 49 (S.C. Penn, 1945).

[9] See Spouses Serrano vs. Court of Appeals, G.R. No. 133883, December 10, 2003.

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