

FERNANDO SIACOR, PETITIONER, VS. RAFAEL GIGANTANA, CORAZON GIGANTANA, NILO RUBIO, DELFIN GIGANTANA, RAUL CAPURAS, AND ADELIA RUBIO ESPINA, RESPONDENTS.*G.R. No. 147877. April 05, 2002*

Ponente: MENDOZA, J.

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This is a petition for review of the decision,[1] dated March 15, 2001, of the Court of Appeals, setting aside the decision of the Department of Agrarian Reform Adjudication Board (DARAB) and reinstating instead the decision of the Agrarian Reform Adjudicator, Region VII, Cebu City dismissing the complaint of petitioner Fernando Siacor.

Petitioner Fernando Siacor is a farmer-beneficiary under P.D. No. 27 and as such, was issued on July 20, 1983 Certificate of Land Transfer (CLT) No. 0-050555 over a parcel of land designated as Lot No. 00202. The lot has an area of 1.0043 hectares and is located in Sillon, Bantayan, Cebu. The land formerly formed part of a large landholding belonging to Manuel Rubio. Upon his death, Manuel Rubio's estate was partitioned among his children, namely, Antonio, Nilo, Amelita, Manuel Jr., and Adelia Rubio Espina.

On June 6, 1986, Nilo Rubio and Adelia Rubio Espina sold their shares to respondent spouses Rafael and Corazon Gigantana. The land sold included the portion previously awarded to petitioner under CLT No. 0-050555, as it straddled the portions inherited by Nilo Rubio and Adelia Rubio Espina. The land sold was covered by Tax Declaration No. 24407 in the name of Nilo Rubio, which was cancelled and allegedly replaced by Tax Declaration No. 14090-A in the name of Rafael Gigantana. The deed of sale to respondents indicates that the property, designated as Cadastral Lot No. 4610, is situated in Sillon, Bantayan, Cebu, and that it has an area of 7.5715 hectares, or 75,715 square meters, but the tax declaration indicates that the property is situated in Kangkaibe, Bantayan, Cebu[2] and that it has an area of 6.6816 hectares.[3]

In the afternoon of February 11, 1992, Rafael Gigantana, with the help of his brother Delfin Gigantana, ejected petitioner from the landholding; and on February 13, 1992, Delfin Gigantana, with the help of Raul Capuras, plowed the land. For this reason, petitioner brought suit before the DARAB Adjudicator, Region VII, Cebu City, seeking the annulment of the contract of sale executed by Nilo Rubio and Adelia Rubio Espina in favor of the Gigantana spouses, the payment of damages, and the issuance of injunction.

Respondent Adelia Rubio Espina denied that petitioner was a tenant of the landholding and prayed for the dismissal of his complaint for lack of cause of action. Respondent spouses Rafael and Corazon Gigantana filed separate answers specifically denying the allegations of the complaint and alleging lack of cause of action and waiver of rights of petitioner over Lot No. 4610.

As the parties failed to reach an amicable settlement at a conference held on February 2, 1993, the Adjudicator, in an order, dated March 17, 1994, directed the parties to submit their position papers within ten (10) days from said date. Then on April 21, 1994, he rendered a decision dismissing petitioner's complaint.

Petitioner appealed to the Department of Agrarian Reform Adjudication Board (DARAB), which, on January 11, 2000, rendered a decision reversing and setting aside the decision of the Adjudicator, thus:

WHEREFORE, premises considered, the Decision of the Adjudicator a quo is hereby REVERSED and SET ASIDE, and a new one is entered as follows:

- Rendering the Deed of Sale executed by the heirs null and void only insofar as it affects the area covered by Certificate of Land Transfer No. 0-050555;
- Directing the Municipal Agrarian Reform Officer of Bantayan, Cebu to reallocate the surrendered landholding covered by CLT No. 0-050555 to a qualified beneficiary in accordance with agrarian laws, rules, and regulations.

SO ORDERED.[4]

Respondents in turn filed a petition for review on certiorari before the Court of Appeals. On March 15, 2001, the Court of Appeals rendered a decision, the dispositive portion of which read –

WHEREFORE, the assailed Decision of the DARAB dated January 11, 2000 is hereby SET ASIDE and the Decision of the Agrarian Reform Adjudicator, Region VII, Cebu City is AFFIRMED.

SO ORDERED.[5]

Hence, this petition. Petitioner contends that the appeals court erred –

- IN FINDING THE COMPLAINT FILED BY PETITIONER AS PREMATURE FOR NO COMPLIANCE OF PRIOR MEDIATION AND/OR CONCILIATION CONFERENCE BEFORE THE BARANGAY AGRARIAN REFORM COMMITTEE (BARC);
- IN FINDING THAT LOT NO. 00202 AWARDED TO PETITIONER PER CERTIFICATE OF LAND TRANSFER (CLT) NO. 0-050555 CONTAINING AN AREA OF 1.0043 HECTARES SITUATED AT SILLON, BANTAYAN, CEBU SUBJECT OF THE DEED OF SALE IS THE SAME LOT LOCATED AT KANGKAIBE, BANTAYAN, CEBU; and
- IN FINDING AND ASSUMING THE WAIVER OF TENANCY RIGHTS EXECUTED BY PETITIONER AS VALID WHEN THE SAME REFERRED TO LOT 4610 LOCATED AT KANGKAIBE, BANTAYAN, CEBU AND NOT TO LOT NO. 00202 LOCATED AT SILLON, BANTAYAN, CEBU.[6]

We find petitioner's appeal well taken.

First. The absence of a certification from the Barangay Agrarian Reform Committee (BARC) is not fatal to petitioner's cause. Rule III, §1(c) of the DARAB Revised Rules of Procedure expressly provides that "the lack of the required certification cannot be made a ground for the dismissal of the action."

Moreover, any objection based on lack of certification by the BARC that the case had undergone the process of mediation and conciliation was waived as a result of respondents' failure to raise such objection in their answer. The record shows that the complaint was brought against the spouses Rafael and Corazon Gigantana, Nilo Rubio, Delfin Gigantana, Raul Capuras, and Adelia Rubio Espina as respondents, but only the spouses Gigantana and Adelia Rubio Espina filed their answers. The rest of the respondents, despite summons served on them, did not submit any pleading to contest petitioner's claim. On the other hand, the principal respondents did not raise the defense of lack of certification. It is now settled that the absence of the conciliation process at the barangay level is not a jurisdictional defect and that failure to seasonably question the lack of conciliation is a waiver, as when the party invoking it submitted himself to the jurisdiction of the court by participating in the trial of the case and presenting his own evidence and cross-examining the witness of the adverse party.[7] Indeed, the question of

non-compliance by petitioner with the certification requirement was not even raised at the parties' conference on February 2, 1993 nor in respondents' Position Paper, dated February 12, 1993, before the Adjudicator.

Second. The Court of Appeals held that what had been sold to respondents is a parcel of land located in Kangkaibe, Bantayan, Cebu and that with respect to the same, petitioner waived his tenancy rights in favor of respondents. Hence, the appeals court dismissed petitioner's complaint.

As a general rule, the factual findings of the Court of Appeals are entitled to great respect by this Court whose review is limited to errors of law. There are, however, exceptions to this rule as when the inference made by the Court of Appeals is manifestly absurd, mistaken, or impossible or when its judgment is premised on a misapprehension of facts.[8]

In the case at bar, the evidence strongly supports the findings of the DARAB that the land sold by Nilo and Adelia Rubio Espina to respondent spouses included the lot previously awarded to petitioner under P.D. No. 27, thus:

- The Deed of Absolute Sale in favor of respondent spouses Rafael and Corazon Gigantana indicates that the land sold is in Sillon, Bantayan, Cebu. This is the same sitio in which the land awarded to petitioner is situated, being formerly a part of a larger piece of land owned by Manuel Rubio, the predecessor-in-interest of the vendors. The land awarded to petitioner and covered by CLT No. 0-050555 is known as Lot No. 00202 and is located in Sillon, Bantayan, Cebu. Its area is 1.0043 hectares.

- The land, subject matter of the Deed of Absolute Sale, is different from the land covered by Tax Declaration No. 14090-A in the name of respondent Rafael Gigantana which the latter claimed to be the property sold to him and his spouse under the Deed. As already stated, the land covered by the Deed of Absolute Sale is located in Sillon, Bantayan, Cebu. Its area is 7.5715 hectares or 75,715 square meters. On the other hand, the land covered by Tax Declaration No. 14090-A is in Kangkaibe, Bantayan, Cebu, and it has an area of 6.6816 hectares.

Consequently, Tax Declaration No. 14090-A in the name of respondents could not have replaced Tax Declaration No. 24407 in the name of Nilo Rubio because, like the Deed of Absolute Sale, this tax declaration referred to a piece of land located in Sillon, Bantayan, Cebu.

For the foregoing reasons, we think it was error for the Court of Appeals to conclude that the land covered by the Deed of Absolute Sale in favor of respondent spouses is one and the same parcel of land, known as Lot No. 4610, covered by Tax Declaration No. 14090-A in the name of Rafael Gigantana, and that it does not include the land previously awarded to petitioner under P.D. No. 27.

It is with respect to Lot No. 4610 located in Kangkaibe, Bantayan, Cebu, not Lot No. 00202 which is in Sillon and which had previously been awarded to him under P.D. No. 27 and for which he was issued CLT No. 0-050555 on July 20, 1983, that petitioner waived his tenancy rights.

Consequently, the sale between Nilo Rubio and Adelia Rubio Espina in favor of the spouses Rafael and Corazon Gigantana must be annulled and considered null and void, having been made in violation of P.D. No. 27 and E.O. No. 228 declaring tenant-tillers as the full owners of the lands they tilled. As this Court has held:

The law is clear and leaves no room for doubt. Upon the promulgation of Presidential Decree No. 27 on October 27, 1972, petitioner was DEEMED OWNER of the land in question. As of that date, he was declared emancipated from the bondage of the soil. As such, he gained the rights to possess, cultivate, and enjoy the landholding for himself. Those rights over that particular property were granted by the government to him and to no other. To insure his continuous possession and enjoyment of the property, he could not, under the law, make any valid form of transfer except to the government or by hereditary succession, to his successors.[9]

The Court of Appeals erred in applying the principle of prescription and laches on the ground that the Deed of Absolute Sale in favor of respondent spouses Gigantana was executed on June 6, 1986, but petitioner filed his complaint only on October 1, 1992. The action for the declaration of the inexistence of a contract does not prescribe.[10]

Third. Even if the waiver of tenancy rights made by petitioner on August 8, 1986 referred to the lot covered by his CLT, the waiver is of no force and effect, being contrary to law and public policy under Art. 6 of the Civil Code.

Nor would petitioner be in *pari delicto* assuming he waived his rights under P.D. No. 27 with respondents. What was held in *Acierto v. De los Santos* with respect to a grant of a homestead patent applies to this case *mutatis mutandis*:

. . . [T]he *pari delicto* may not be invoked in a case of this kind since it would run counter to an avowed fundamental policy of the State, that the forfeiture of the homestead is a matter between the State and the grantee or his heirs and that until the State had taken steps to annul the grant and asserts title to the homestead, the purchaser is, as against the vendor or his heirs, “no more entitled to keep the land than any intruder.”[11]

WHEREFORE, the decision of the Court of Appeals is REVERSED and SET ASIDE and the decision, dated January 11, 2000, of the Department of Agrarian Reform Adjudication Board is REINSTATED.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, and De Leon, Jr., JJ., concur.

[1] Per Justice Eugenio S. Labitoria and concurred in by Justices Eloy R. Bello, Jr. and Perlita Tria Tirona.

[2] CA Records, p. 15; Petition, p. 10.

[3] CA Records, pp. 25, 33; Position Paper for Defendants, p. 1.

[4] Rollo, p. 47.

[5] *Id.*, p. 33.

[6] *Id.*, p. 16.

[7] See *Royales v. IAC*, 127 SCRA 470 (1984); *Morata v. Go*, 125 SCRA 444 (1983).

[8] *Rizal Cement, Co., Inc. v. Villareal*, 135 SCRA 15, 24 (1985). See also *Remalante v. Tibe*, 158 SCRA 138 (1988).

[9] *Torres v. Ventura*, 187 SCRA 96, 104 (1990).

[10] CIVIL CODE, Art. 1410.

[11] 95 Phil. 887, 889 (1954).

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