

FILOMENA SILVA, PETITIONER, VS. JUDGE DOMINGO M. CABANGON AND FRANCISCO SICAT, RESPONDENTS.

G. R. No. 14801. January 31, 1963

Ponente: REGALA, J.

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REGALA, J.:

Sometime in 1958, the herein respondent, Francisco Sicat, filed a petition in the Court of Agrarian Relations, Third Regional District, Sala II, Tarlac, Tarlac, for a reliquidation of the palay crops harvested from the landholding of the herein petitioner, Filomena Silva from the agricultural year 1937-1938 to the agricultural year 1956-1957. Thereafter, or on April 21, 1959, Filomena Silva filed her answer to the petition, although before a hearing could be held on the merits, she filed an amended answer on April 30, 1959. In the amended answer, Filomena Silva specifically "denied all the material allegations in the petition except paragraph 8 * * * which refers to the quantity of 259 cavans as the net harvest during the second crop in the agricultural year 1956-57." Moreover, her amended answer contained a counterclaim for the ejectment of Francisco Sicat from the landholding in question. She charged the herein respondent Sicat with "incapacity to work due to sickness, and without notice and permission given by her, Francisco Sicat employed his son to work and in fact did all the farmwork in the landholding against her will."

During the hearing of the case, the parties stipulated on the facts to the end that, with respect to the petition for reliquidation, "the only issue left for determination is the amount of harvest in the first and second crop of the agricultural year 1955-1956." The counterclaim for ejectment was treated as an independent and separate issue.

Upon these facts, the Court of Agrarian Relations rendered the following decision:

"Wherefore, a decision is hereby rendered:

(1) That a reliquidation of the produce in the agricultural year 1955-1956 is undertaken such that in addition to what the petitioner has already received, he is hereby entitled more to 34 cavans and 18 kilos of palay representing the short share in his favor from respondent, with interest at the rate of 6% per annum computed from the filing of the petition, March 28, 1958;

(2) That the 20% of the produce in the agricultural year 1956-1957 second crop deposited in the Luzon Rice Mill, Tarlac, Tarlac, belongs to the herein petitioner who is hereby allowed to withdraw the same and the Luzon Rice Mill is hereby ordered to release the said deposit to the petitioner upon payment by the latter of the deposit fee, if any; and

(3) That the counterclaim of the respondent, against the petitioner is hereby dismissed for lack of sufficient evidence."

On receiving a copy of the above decision, herein petitioner filed a motion for reconsideration which, however, was denied on December 3, 1958. Hence this appeal.

The herein petitioner raised two issues, to wit: (1) the conclusion of the trial court regarding the order of

reliquidation; and (2) the court's dismissal of the counter-claim for ejectment.

We are not at liberty to review the conclusion of the lower court regarding the reliquidation which resulted in the award to respondent Sicat of 34 cavans and 18 kilos of palay. The same is a factual finding binding on us. Upon the records, the conclusion of the lower court is adequately supported by the evidence.

We shall limit this decision, therefore, to the determination of whether the dismissal of the counterclaim for ejectment was valid or not. In considering this, the pertinent facts are as follows:

Francisco Sicat has been the tenant on the landholding in question from 1937 up to the present. In 1951, he got sick with pneumonia because of which his doctor advised him not to work strenuously for at least four (4) years. The attending physician warned him that unless he heeded the advice, this ailment would recur. Following his doctor, therefore, he worked the field "little by little" only.

In December 1957, Francisco Sicat fell sick again. Thereafter, in January 1958, he consulted his doctor once more who then diagnosed him for stomach ulcer. For this latter illness, Francisco Sicat admitted he was not able to plow the landholding in question for the second crop of the agricultural year 1957-1958.

On Account of Francisco Sicat's poor health, his children have been working the field for him from 1954 up to the present. Prominent of them was Luisito Sicat, who, upon the testimony herein petitioner's own witness, worked under the supervision of his father, Francisco Sicat (p. 13, t.s.n.)

It is likewise charged that, being then a tenant of the herein petitioner, in 1950, Francisco Sicat also worked on the field of a certain Mr. Costales under tenancy. Petitioner Filomena Silva claimed at the trial that that fact was completely unknown to her.

Upon these facts, Filomena Silva demands the severance of her agricultural tenancy relationship with Francisco Sicat. She invokes the following two provisions of Republic Act No. 1199:

"SEC. 9. SEVERANCE OF RELATIONSHIP. The tenancy relationship is extinguished by the voluntary surrender of the land by, or the death or incapacity of, the tenant, but his heirs or the members of his immediate farm household may continue to work the land until the close of the agricultural year. The expiration of the period of the contract as fixed by the parties, and the sale or alienation of the land do not of themselves extinguish the relationship. In the latter case, the purchaser or transferee shall assume the rights and obligations of the former landholder in relation to the tenant. In case of death of the landholder, his heir or heirs shall likewise assume his rights and obligations."

SEC. 24. PROHIBITION TO TENANT.

"(1) It shall be unlawful for the tenant, whenever the area of his holdings is five hectares or more, or is of sufficient size to make him and the members of his immediate farm household fully occupied in its cultivation, to contact to work at the same time on two or more separate holdings belonging to different landholders under any system of tenancy, without the knowledge and consent of the landholder with whom he first entered into tenancy relationship."

On the other hand, herein respondent, adopting the arguments discussed in the reply-memorandum of the herein respondent Judge, contends that the law applicable to the instant litigation is section 24, paragraph (b) of Republic Act No. 1199, which provides.

"(1) It shall be unlawful for a share-tenant to employ a sub-tenant to furnish labor on any phase of the work required of him under this Act, except in cases of illness or any temporary incapacity on his part, in which eventually the tenant or any member of his immediate farm household is under obligation to report such illness or incapacity to the landlord. Payment to the sub-tenant, in whatever form for services rendered on the land

under this circumstance, shall be for the account of the tenant." (*Italics supplied*)

We find for the respondents.

While the records show that the herein respondent was indeed sick, there is no evidence to support the charge that he is incapacitated. During the period that he is here complained of, he could still perform farm labor little by little. Furthermore, with the aid of his son, he was still efficient and responsible with his tenancy obligations. Proofs of this is the finding of the trial court that in the agricultural year 1956-1957, the yield was the highest for the farm.

It was urged in this appeal that the admission by Francisco Sicat that he was unable to plow the land in question for the second crop of agricultural year 1957-1958 should convince the Court of Francisco Sicat's incapacity as contemplated by section 9 of the tenancy law. We do not fully concur with the observation. We hold that, at the most, the above admission established only the fact of incapacity for the period of the second crop of the agricultural year 1957-1958. The admission did not establish the fact of permanent incapacity. Consequently, the applicable law is not section 9 but section 24, paragraph (b) of the agricultural Tenancy Act, considering that the incapacity as found by the trial court was only temporary. In this regard, We likewise view the finding of the trial Judge in his decision that Francisco Sicat was "no longer coughing" and well already, as an observation which We should neither ignore nor disturb. For it assumed the character of a factual finding over which. We have always adopted respect for.

Petitioner Silva finally proposes the ejectment of the respondent tenant upon the authority of section 24, paragraph 1. She complains that Francisco Sicat has been working under tenancy in another landholding without her previous consent. We note, however, that although the alleged violation of the above provision occurred as early as 1950 yet, herein petitioner had not done anything to assert her right thereunder. We cannot, therefore, hear her now on that charge. She has slept on her right and cannot now invoke the protection of the law.

In view of all the foregoing, We affirm in full the judgment of the lower court and hereby declare the dismissal of the counterclaim for ejectment proper and in accord with law. Costs against the petitioner.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

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