

**SPS. ERNESTO GUTIERREZ AND FELICISIMA B. GUTIERREZ,
PETITIONERS, VS. PASCUAL B. CABRERA (DECEASED), SUBSTITUTED
BY HIS HEIRS NAMELY: REYMUNDO F. CABRERA, ENELIA F.
CABRERA, NERY...**

G.R. NO. 154064. February 28, 2005

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is a petition for review of the Decision,[1] dated September 28, 2000, of the Court of Appeals in CA-G.R. SP No. 46266 nullifying (a) the Decision,[2] dated August 11, 1997, of the Municipal Trial Court, of Calumpit, Bulacan in Special Civil Action No. 53, (b) the Decision,[3] dated November 17, 1997, of the Regional Trial Court of Bulacan, Branch 20 in Civil Case No. 686-M-97, and (c) the Writ of Execution[4] issued on March 16, 1998. Included in this review is the Resolution,[5] dated June 14, 2002, of the Court of Appeals, denying petitioners' Motion for Reconsideration.

The facts of the case, as culled from the records, are as follows:

On September 29, 1970, petitioner Felicisima B. Gutierrez purchased from her mother, Primitiva Lorenzo Vda. de Buenaventura, a parcel of land covered by Transfer Certificate of Title No. T-47965. After due registration with the Register of Deeds, petitioner Felicisima was issued TCT No. T-252339.

On March 25, 1976, Primitiva entered into an agricultural lease agreement[6] over the same parcel of land with respondent Pascual B. Cabrera. By virtue of this agreement, Cabrera took possession and cultivated the land. After sometime, the land was converted into a fishpond.

When petitioners sent their son, Apolinario, to check on the status of the property, respondent confronted Apolinario and hacked him with a bolo. Respondent, for his part, filed a criminal case for trespassing against Apolinario before the MTC. The complaint was, however, dismissed.

Subsequently, petitioners asked respondent to vacate the land but respondent refused. On May 14, 1997, petitioners then filed before the MTC[7] an ejectment case against respondent. On May 28, 1997, respondent, assisted by the Department of Agrarian Reform Legal Assistance Division, moved for the dismissal of the case on the ground of lack of jurisdiction. Respondent alleged that he was a registered agricultural tenant.[8]

The MTC denied respondent's motion to dismiss for two reasons, namely (1) that the jurisdiction over the subject matter was determined by the allegations in the complaint and not on the allegations in the answer or motion to dismiss; and (2) that the motion was defective for not being addressed to the adverse party and set for hearing.[9]

Petitioners filed two motions to render judgment on the pleading for respondent's failure to file an answer. Accordingly, a decision[10] on the case was rendered on August 11, 1997, as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendant ordering the

latter and all persons claiming rights over them:

- a) to vacate the subject parcel of land and to surrender the peaceful possession thereof to the plaintiff;
- b) to pay plaintiff the amount of P5,000.00 per month as reasonable monthly rentals to commence on March 1976 until the possession of the subject parcel of land is turned over to the plaintiffs;
- c) to restore the subject parcel of land to its former condition before the same was converted into a fishpond;
- d) to pay the plaintiff the amount of P30,000.00 as reasonable attorney's fees.

SO ORDERED.[11]

Respondent appealed the decision to the RTC raising as error the MTC's lack of jurisdiction since what was involved was an agrarian dispute.[12] The RTC, however, affirmed in toto the MTC Decision.[13] Consequently, petitioners moved for the execution of the judgment. This was granted and so, on March 16, 1998,[14] and July 14, 1998,[15] writs of execution and of demolition were respectively issued.

Based on the sheriff's partial report,[16] dated August 11, 1998, respondent's house on the subject land was demolished. On February 2, 1999,[17] the sheriff levied two parcels of agricultural land owned by respondent and sold them, on July 5, 1999,[18] in an auction. The petitioners were the highest bidders. These fully satisfied the MTC judgment.

In the meantime, respondent appealed to the Court of Appeals.[19] Petitioners opposed the petition on ground that it impleaded the lower court judge contrary to Section 2, Rule 42 of the Rules of Court. It prayed that the petition be dismissed.

On September 28, 2000, the Court of Appeals annulled the decisions of the MTC and of the RTC as well as the writ of execution dated March 16, 1998. Petitioners then filed a motion for reconsideration,[20] but it was denied.

Hence, the instant petition for review raising the following issues:

- WHETHER OR NOT A JUDGE WHO RENDERED A DECISION MAY BE IMPLEADED AS A PARTY IN A PETITION FOR REVIEW WITH THE COURT OF APPEALS UNDER RULE 42 OF THE 1997 RULES OF CIVIL PROCEDURE;
- WHETHER OR NOT P.D. NO. 316 AND P.D. 1038 WERE EXPRESSLY REPEALED BY R.A. 6657, SO AS TO RENDER THE ASSAILED DECISION AND RESOLUTION OF THE COURT OF APPEALS WITHOUT LEGAL BASIS;
- WHETHER OR NOT A MOTION TO DISMISS BEING A LITIGATED MOTION MUST BE SET FOR HEARING BY THE APPLICANT/MOVANT BY INDICATING THE TIME AND DATE OF THE HEARING, DULY SERVED UPON THE ADVERSE PARTY AT LEAST 3 DAYS BEFORE THE SCHEDULED HEARING OF THE MOTION.[21]

Simply put, we are asked to resolve the following questions: (1) Should the appellate court dismiss the petition because it impleaded the lower court judge as a party? (2) Should the trial court refer the case to the Department of Agrarian Reform (DAR) for preliminary determination of agricultural tenancy relationship? and (3) Was the denial of the motion to dismiss by the MTC proper?

First, petitioners assert that in accordance with Section 3[22] in relation to Section 2[23] of Rule 42 of the Rules

of Court, the Court of Appeals should have dismissed the petition. Second, petitioners insist that proceedings in the trial court were proper and regular since Republic Act No. 6657[24] repealed Presidential Decree No. 316[25] and Presidential Decree No. 1038,[26] thus the condition precedent of referring the case to the DAR for preliminary determination of agricultural tenancy relationship was no longer necessary. Third, petitioners also claim that the MTC did not err when it denied the motion to dismiss because the motion lacked the requirement set forth in Sections 4[27] and 5,[28] Rule 15 of the Rules of Court.

Anent the first issue, the correct procedure, as mandated by the Rules of Court, is not to implead the lower court or agency which rendered the assailed decision.[29] However, impleading a lower court judge as respondent in the petition for review does not automatically mean the dismissal of the appeal but merely authorizes the dismissal of the petition.[30]

Formal defects in petitions are not uncommon. The Court has encountered previous petitions for review that erroneously impleaded the Court of Appeals. In those cases, the Court merely called the petitioners' attention to the defects and proceeded to resolve the case on their merits.[31] The Court finds no reason why it should not afford the same liberal treatment in this case. While the Court has unquestionably the discretion to dismiss the appeal for being defective, sound policy dictates that it is far better to dispose of cases on the merits, rather than on technicality as the latter approach may result in injustice.[32] This is in accordance with Rule 1, Section 6[33] which encourages a reading of the procedural requirements in a manner that will help secure and not defeat justice.[34]

On the second issue, referral to the DAR is no longer necessary. P.D. No. 316 and P.D. No. 1038 which required the referral of a land dispute case to the DAR for the preliminary determination of the existence of an agricultural tenancy relationship has indeed been repealed by Section 76[35] of Rep. Act No. 6657 in 1988.[36] Thus, the court may proceed to hear the case. However, it still has to ascertain that the case does not involve an agrarian dispute before taking cognizance thereof.[37]

For a case to involve an agrarian dispute, the following essential requisites of an agricultural tenancy relationship must be present: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) there is consent; (4) the purpose is agricultural production; (5) there is personal cultivation; and (6) there is sharing of harvest or payment of rental.[38]

Our examination of the records show that there is no landowner-tenant relationship between the parties. Primitiva no longer owned the land on March 23, 1976, at the time she entered into the lease agreement with Pascual Cabrera. On September 29, 1970, she already sold the land to her daughter, petitioner Felicisima. Since the sale, Primitiva no longer had an owner's right to alienate or encumber it, much less, to lease it. Without a valid leasehold agreement, there was no tenancy involved in this case, and the jurisdiction on the matter belonged to the regular courts.

Apropos the last issue, concerning the motion to dismiss filed by respondent before the MTC, we have time and again warned that a notice of hearing which does not comply with the requirements of Sections 4 and 5, Rule 15 of the Rules of Court, is a worthless piece of paper and would not merit any consideration from the courts.[39] The clerk of court does not have the duty to accept it, much less, to bring it to the attention of the presiding judge.[40] The defect cannot be cured by any subsequent action of the court and it is grave abuse of discretion of the court to overlook the mandatory rule on notice and act on the motion.[41]

WHEREFORE, the petition is GRANTED. The Decision, dated September 28, 2000, and the Resolution, dated June 14, 2002, of the Court of Appeals in CA-G.R. SP No. 46266 are hereby REVERSED and SET ASIDE, and the Decisions dated August 11, 1997 and November 17, 1997 of the Municipal Trial Court in Special Civil Action

No. 53 and of the Regional Trial Court in Civil Case No. 686-M-97, respectively, are reinstated. The Writ of Execution dated March 16, 1998, by the RTC is also declared valid. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 96-102. Penned by Associate Justice Conchita Carpio Morales (now a member of the Court), with Associate Justices Candido V. Rivera, and Josefina Guevara-Salonga concurring.

[2] CA Rollo, pp. 50-53.

[3] Id. at 68-76.

[4] Id. at 177-178.

[5] Rollo, pp. 119-120.

[6] Id. at 43-44.

[7] Id. at 29-33.

[8] Id. at 35-42.

[9] Id. at 49-55.

[10] Id. at 60-63.

[11] Id. at 62-63.

[12] CA Rollo, pp. 54-62.

[13] Rollo, pp. 64-72.

[14] Supra, note 4.

[15] Id. at 211.

[16] Ibid.

[17] Id. at 276.

[18] Id. at 279.

[19] Id. at 16-26.

[20] Rollo, pp. 103-118.

[21] Id. at 5.

[22] SEC. 3. Effect of failure to comply with requirements. – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof. (Emphasis supplied)

[23] SEC. 2. Form and contents. – The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to

the case, without impleading the lower courts or judges thereof either as petitioners or respondents; . . . (Emphasis supplied)

[24] AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES.

[25] PROHIBITING THE EJECTMENT OF TENANT-TILLERS FROM THEIR FARMHOLDINGS PENDING THE PROMULGATION OF THE RULES AND REGULATIONS IMPLEMENTING PRESIDENTIAL DECREE NO. 27.

[26] STRENGTHENING THE SECURITY OF TENURE OF TENANT-TILLERS IN NON-RICE/CORN PRODUCING PRIVATE AGRICULTURAL LANDS.

[27] SEC. 4. Hearing of motion. – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice. (Emphasis supplied)

[28] SEC. 5 Notice of hearing. – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

[29] Rules of Court, Rule 43, Sec. 6. Contents of the petition. – The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

[30] *Supra*, note 22.

[31] *Asia Traders Insurance Corporation v. Court of Appeals*, G.R. No. 152537, 16 February 2004, pp. 5-6.

[32] *Armed Forces of the Philippines Mutual Benefit Association, Inc. v. Court of Appeals*, G.R. No. 126745, 26 July 1999, 311 SCRA 143, 157.

[33] Sec. 6. Construction. – These Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.

[34] *Paras v. Baldado*, G.R. No. 140713, 8 March 2001, 354 SCRA 141, 145.

[35] SEC. 76. Repealing Clause. – Section 35 of Republic Act No. 3844, Presidential Decree No. 316, the last two paragraphs of Section 12 of Presidential Decree No. 946, Presidential Decree No. 1038, and all other laws, decrees, executive orders, rules and regulations, issuances or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

[36] *Caraan v. Court of Appeals*, G.R. No. 124516, 24 April 1998, 289 SCRA 579, 584.

[37] See *Ualat v. Ramos*, A.M. Nos. MTJ-91-567 & MTJ-91-588, 6 December 1996, 265 SCRA 345, 357.

[38] Pascual v. Court of Appeals, G.R. No. 138781, 3 December 2001, 371 SCRA 338, 346.

[39] Basco v. Court of Appeals, G.R. No. 125290, 9 August 2000, 337 SCRA 472, 484.

[40] Norris v. Parentela, Jr., G.R. No. 143216, 27 February 2003, 398 SCRA 346, 353-354 citing Provident International Resources Corp. v. Court of Appeals, G.R. No. 119328, 26 July 1996, 259 SCRA 510, 526.

[41] Provident International Resources Corp. v. Court of Appeals, *ibid.*

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