

**AGUSTIN RIVERA, SUBSTITUTED BY GREGORIO B. RIVERA,
DOMINGA B. RIVERA, ORLANDO B. RIVERA, ROSARIO R. LOPEZ,
CRISANTO B. RIVERA, EMILIANO B. RIVERA AND CONCHITA B.
RIVERA, PETITIO...**

G.R. NO. 157307. February 27, 2006

Ponente: QUISUMBING, J.

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QUISUMBING, J.

This petition for review on certiorari seeks to reverse the Decision[1] dated October 1, 2002 of the Court of Appeals in CA-G.R. SP No. 58211, and its Resolution[2] dated February 19, 2003 denying reconsideration. The Court of Appeals had overturned for lack of jurisdiction of the DAR the Decision dated January 31, 1995 of the Provincial Agrarian Reform Adjudication Board (PARAB)[*] and the Decision dated March 6, 2000 of the Department of Agrarian Reform Adjudication Board (DARAB).

The pertinent facts of the case are as follows:

Respondent Nemesio David, with the other heirs of Consolacion Suarez David, owned in common five hectares of land covered by Transfer Certificate of Title No. 47588-R in Dau, Mabalacat, Pampanga. Petitioner Agustin Rivera occupied 1.8 hectares of the land. Through counsel, the Davids demanded that petitioner vacate the property. Rivera refused and instituted a complaint with an application for injunction to maintain peaceful possession before the PARAB.[3]

In his Complaint, Rivera averred that he was a duly instituted tenant. To support his averment, he submitted a certification from the Municipal Agrarian Reform Office together with the affidavits of two neighbors.

Respondent David denied that Rivera was his family's tenant. According to respondent, Rivera had been squatting on the property since 1965 and had put up, without the Davids' consent, a hollow blocks business and also a piggery in the property. David sought the dismissal of the case before the PARAB alleging that the PARAB lacked jurisdiction, considering that the property was not an agricultural land and the case involved the issue of ownership.[4]

The PARAB required the parties to file their position papers. In his position paper,[5] Rivera averred that he occupied the land, at first, as a tenant; then, as an owner in 1957. He alleged that the land became his own as disturbance compensation. He prayed that he be declared as a qualified beneficiary of the agrarian reform program and he be awarded three hectares as mandated by law.

For his part, respondent David reiterated his defenses and added that Rivera's claim that the property was transferred to the latter in 1957 was inconsistent with Rivera's claim of disturbance compensation since the idea of disturbance compensation was introduced only by Republic Act No. 3844[6] on August 8, 1963 and the disturbance compensation awarded to an agricultural lessee is equivalent only to five years' rental. Even so, the 1.8 hectares claimed by the petitioner was in excess of what is allowed under said law.[7]

Initially, the PARAB held that David was guilty of laches or estoppel since he and his predecessors-in-interest had allowed petitioner to retain the property. Further, the PARAB said it had more reasons to believe that respondent's predecessors-in-interest had given the land to the petitioner as the latter had long occupied the property and developed it. It rendered judgment maintaining petitioner Rivera in peaceful possession of the property without prejudice to his claim as qualified beneficiary of the agrarian reform program.[8]

On appeal, the DARAB affirmed the PARAB's finding of estoppel and added that the action to recover the property was barred by the Statute of Limitations under Section 38[9] of Rep. Act No. 3844.[10]

Respondent David elevated the case to the Court of Appeals, raising the following issues:

(A)

DID RESPONDENT [petitioner herein] FAIL TO DISCHARGE THE BURDEN OF PROVING BY SUBSTANTIAL EVIDENCE HIS AFFIRMATIVE ALLEGATIONS OF (I) FARMING AND TILLING; (II) PALAY PRODUCTION; (III) PERSONAL PERFORMANCE OF ALL PHASES OF PRODUCTION; (IV) PAYMENT OF LEASEHOLD RENTALS; (V) SETTLEMENT BY PETITIONER'S FATHER OF A CONTROVERSY WITH HIM; (VI) CONVEYANCE BY PETITIONER'S FATHER OF THE 1.8 HECTARES TO RESPONDENT?

(B)

DID RESPONDENT'S EVIDENCE FAIL TO ESTABLISH THE TRADITIONAL SIX ESSENTIAL ELEMENTS TEST FOR TENANCY RELATIONSHIPS IN CHICO V. COURT OF APPEALS, 284 SCRA 33, 36 AND BARANDA V. BAGUIO, 189 SCRA 194, 200?

(C)

IS MERE ALLEGATION OF CONVEYANCE WITHOUT PROOF ENOUGH TO SUSTAIN THE DARAB'S CONCLUSION THAT RESPONDENT IS A TENANT-FARMER ENTITLED TO SECURITY OF TENURE?

(D)

IS A DARAB DECISION BASED ON SOME HEARSAY AFFIDAVITS AND CERTIFICATION – NOT SUBJECTED TO PRIOR REAFFIRMATION IN OPEN COURT BY THE AFFIANT OR PERSON CERTIFYING AND TO A PROCESS OF SANITIZING OR PASTURIZING AS TO THEIR SELF-SERVING CONTENT – A DECISION BASED ON EVIDENCE THAT LACKS RATIONAL PROBATIVE FORCE?

(E)

IS A DARAB DECISION BASED ON HEARSAY AFFIDAVITS AND CERTIFICATION – NOT SUBJECTED TO PRIOR IDENTIFICATION BY THE AFFIANT OR PERSON CERTIFYING – A DECISION BASED ON EVIDENCE THAT [LA]CKS RATIONAL PROBATIVE FORCE?

(F)

IS A DARAB DECISION BASED ON SOME HEARSAY AFFAIDAVITS AND CERTIFICATION – NOT SUBJECTED TO CROSS-EXAMINATION – A DECISION BASED ON EVIDENCE THAT LACKS RATIONAL PROBATIVE FORCE?) [sic]

(G)

IS THE DARAB'S MARCH 6, 2000 DECISION AD[O]PTING THE FINDINGS OF ADJUDICATOR ILAO ONE THAT IS BASED ON EVIDENCE THAT LACKS RATIONAL PROBATIVE FORCE?

(H)

DOES THE PARAB/DARAB (sic) HAVE JURISDICTION TO MAKE A FINDING OF OWNERSHIP UNDER THE GUISE OF A CHARACTERIZATION TO THE EFFECT THAT PETITIONER'S FATHER HAD MADE A CONVEYANCE TO RESPONDENT?[11]

The appellate court reversed the decisions of both the PARAB and the DARAB. It reasoned that the Department of Agrarian Reform (DAR) no longer had jurisdiction over the case because by petitioner Rivera's own admission, the tenancy ended in 1957. The appellate court set aside the decisions of both the PARAB and DARAB for lack of jurisdiction and dismissed petitioner's complaint, to wit:

WHEREFORE, the petition is GRANTED, and the challenged decisions of both the PARA[B] and the DARAB are REVERSED and SET ASIDE, including the writs of execution issued by the PARA[B], and another is rendered DISMISSING the respondent Agustin Rivera's complaint. No costs.

SO ORDERED.[12]

Petitioner before us raises now mainly the issue concerning jurisdiction, alleging that:

THE COURT OF APPEALS ERRED IN FINDING THAT THE PARA[B] AND THE DARAB HAVE NO JURISDICTION OVER RIVERA'S COMPLAINT.[13]

Simply put, the main issue now is as follows: Does the DAR have jurisdiction? Secondly, was petitioner the owner of the land and are his substitute-petitioners entitled to its peaceful possession?

We note that because of petitioner Rivera's death, his heirs are now substituted as petitioners. At any rate, petitioner had insisted that the DAR had jurisdiction over the case for he had sufficiently established before the PARAB and the DARAB that he was a tenant of respondent's predecessor-in-interest. He asserted that as tenant of respondent's predecessor-in-interest, his tenancy was intimately related to the issue of ownership and thus his case fell under the jurisdiction of the DAR.

Petitioner further contended that even though the tenancy relation no longer existed at the time the complaint was filed, the DAR had not been deprived of its jurisdiction since under Section 1(e), Rule II of the DARAB

Rules of Procedure,[14] it has jurisdiction over cases involving the alienation of agricultural lands covered by the agrarian reform program. He added that the definition of "agrarian dispute" under Rep. Act No. 6657[15] included any controversy relating to compensation of land acquired under the Act and other terms and conditions of transfer of ownership from landowners to farm workers, tenants, and other agrarian reform beneficiaries.

For his part, respondent David reiterates before us the arguments in his earlier pleadings before the administrative

agencies and the appellate court.

First, on the matter of jurisdiction. We agree with petitioner that the DAR has jurisdiction over his case. In the 2004 case of *David v. Rivera*,^[16] a case involving the same parcel of land here, filed before the Municipal Circuit Trial Court (MCTC) of Mabalacat by the respondent against petitioner, the issue raised was whether the MCTC or the DAR had jurisdiction. Therein, we held that the existence of prior agricultural tenancy relationship characterizes the controversy as an "agrarian dispute", adding that"

Even if the tenurial arrangement has been severed, the action still involves an incident arising from the landlord and tenant relationship. Where the case involves the dispossession by a former landlord of a former tenant of the land claimed to have been given as compensation in consideration of the renunciation of the tenurial rights, there clearly exists an agrarian dispute. On this point the Court has already ruled:

Indeed, section 21 of Republic Act No. 1199, provides that 'all cases involving the dispossession of a tenant by the landlord or by a third party and/or the settlement and disposition of disputes arising from the relationship of landlord and tenant . . . shall be under the original and exclusive jurisdiction of the Court of Agrarian Relations.' This jurisdiction does not require the continuance of the relationship of landlord and tenant — at the time of the dispute. The same may have arisen, and often times arises, precisely from the previous termination of such relationship. If the same existed immediately, or shortly, before the controversy and the subject-matter thereof is whether or not said relationship has been lawfully terminated, or if the dispute otherwise springs or originates from the relationship of landlord and tenant, the litigation is (then) cognizable only by the Court of Agrarian Relations . . .^[17]

Although the cause of action now may differ from that in the 2004 case of *David v. Rivera*, under the facts of the cases, and by our prior judgment on the issue of jurisdiction, the parties herein are bound by the conclusiveness of judgment in the 2004 case of *David v. Rivera*, in accordance with Rule 39, Sec. 4(c), of the Rules of Court.^[18] Conformably then, the DAR has jurisdiction.

Now, on the issue of ownership, we find that petitioner Rivera failed to prove that he indeed owned the property. All he submitted was an affidavit from a Feliciano Manansala stating that there was a verbal agreement between him and the respondent's predecessor-in-interest giving him the 1.8 hectares. However, petitioner did not present the affiant in court. Where the affiant did not appear, nor was he presented during the administrative investigation to identify his sworn statement, his affidavit is hearsay, hence inadmissible in evidence.^[19]

On the other hand, respondent David presented TCT No. 47588-R, dated September 29, 1965, tax declarations from 1941 to 1963 under the name of respondent's predecessors-in-interest, and tax declarations from 1965 to 1971 under the name of the respondent and his co-heirs. Compared to petitioner's dearth of evidence, these sufficiently show that respondent and his co-heirs still owned the land. As a corollary, since it has been established that petitioner Rivera is not the owner of the land, he and his heirs are not entitled to peaceful possession thereof.

In sum, we find that the Court of Appeals did not err in dismissing Agustin Rivera's complaint, not because the DAR had no jurisdiction over the case but because his complaint lacks merit.

WHEREFORE, the petition is DENIED. We affirm the Decision dated October 1, 2002 and the Resolution dated February 19, 2003 in CA-G.R. SP No. 58211 dismissing Agustin Rivera's complaint. The Decision dated January 31, 1995 of the PARAB in DARAB Case No. 664 P-94 and the Decision dated March 6, 2000 of the DARAB in DARAB Case No. 4960, including the writs of execution issued by the PARAB are SET ASIDE. Respondent Nemesio David and his fellow heirs of Consolacion Suarez David are hereby declared owners of the contested land covered by TCT No. 47588-R under the Registry of Deeds of Mabalacat, Pampanga. No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio-Morales and Tinga, JJ., concur.

[1] Rollo, pp. 8-23. Penned by Associate Justice Salvador J. Valdez, Jr., with Associate Justices Mercedes Gozo-Dadole, and Sergio L. Pestaño concurring.

[2] Id. at 24.

[*] PARAD in some parts of the records.

[3] Rollo, p. 54.

[4] Id. at 55.

[5] Id. at 79-85.

[6] AN ACT TO ORDAIN THE AGRICULTURAL LAND REFORM CODE AND TO INSTITUTE LAND REFORMS IN THE PHILIPPINES, INCLUDING THE ABOLITION OF TENANCY AND THE CHANNELING OF CAPITAL INTO INDUSTRY, PROVIDE FOR THE NECESSARY IMPLEMENTING AGENCIES, APPROPRIATE FUNDS THEREFOR AND FOR OTHER PURPOSES.

[7] Rollo, pp. 86-91.

[8] Id. at 111-119.

[9] SEC. 38. Statute of Limitations.—An action to enforce any cause of action under this Code shall be barred if not commenced within three years after such cause of action accrued.

[10] Rollo, pp. 120-125.

[11] Id. at 36-37.

[12] Id. at 22-23.

[13] Id. at 39.

[14] DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD (DARAB) NEW RULES OF PROCEDURE (1994).

RULE II—JURISDICTION OF THE ADJUDICATION BOARD.

SECTION 1. Primary and Exclusive Original and Appellate Jurisdiction. The Board shall have primary and exclusive jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes involving the implementation of the Comprehensive Agrarian Reform Program (CARP) under Republic Act No. 6657, Executive Order Nos. 228, and 129-A, Republic Act No. 3844 as amended by Republic Act No. 6389, Presidential Decree No. 27 and other agrarian laws and their implementing rules and regulations. Specifically, such jurisdiction shall include but not be limited to cases involving the following:

x x x

e) Those involving the sale, alienation, mortgage, foreclosure, pre-emption and redemption of agricultural lands under the coverage of the CARP or other agrarian laws;

x x x

[15] AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE

SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES.

[16]G.R. Nos. 139913 & 140159, 16 January 2004, 420 SCRA 90.

[17]Id. at 99-100 citing *Basilio v. De Guzman*, 105 Phil. 1276 (1959).

[18] Rules of Court, Rule 39, Sec. 47, par. (c).

SEC. 47. Effect of judgments or final orders. – The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:. . .

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

[19] *Melchor v. Gironella*, G.R. No. 151138, 16 February 2005, 451 SCRA 476, 483 citing *Tapiador v. Office of the Ombudsman*, G.R. No. 129124, 15 March 2002, 379 SCRA 322, 330.

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