SOFRONIO AMBAYEC, REPRESENTED BY HIS HEIRS, NAMELY: CLEOTILDE, ENICITA, ALIA, REP. BY CRISTOPHER, SOFRINA, MARCEDELIA, JULIETA, ROMEO, REP. BY ALMA, WILSON, TEOFISTO, REP. BY SU...

G.R. NO. 162780. June 21, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition for review on certiorari under Rule 45 of the Revised Rules of Civil Procedure assails the decision of the Court of Appeals in CA-G.R. SP No. 68993 dated March 11, 2004, which reversed and set aside the decision dated October 26, 2000 of the Department of Agrarian Reform Adjudication Board (DARAB) in Case No. 7892.

The factual antecedents are as follows:

In a complaint[1] filed before the Court of Agrarian Relations (CAR), Branch 1, Davao City,[2] Sofronio Ambayec[3] and Damian Alicabo alleged that since 1930 and 1924, respectively, they have been tenants of the spouses Vicente and Vicenta Tionko.

They claimed that in 1975, 13 out of the 24 hectares they have occupied and planted with trees and crops were bulldozed by the Tionkos resulting in the destruction of the improvements they have made. The subject land was subdivided and sold to various buyers, but they were not given share in the purchase price and disturbance compensation despite demand.

In their separate answers,[4] the respondents, heirs of Vicente and Vicenta Tionko, contended that the CAR lacks jurisdiction since the land in dispute was residential and not agricultural. They also denied that Ambayec and Alicabo were tenants of their predecessors.

When Batas Pambansa Blg. 129[5] was enacted, the case was transferred to the Regional Trial Court of Davao City, Branch XIII. The proceedings, however, was suspended[6] pending the resolution of the administrative case before the Bureau of Lands for annulment of title covering the area claimed by Alicabo.

Under Republic Act No. 6657,[7] Agrarian Adjudication Board has jurisdiction over agrarian disputes; thus, CAR Case No. 3121 was transferred to the Department of Agrarian Reform Office, Davao City, for adjudication.[8]

On October 17, 1995, respondents moved to dismiss the case on the ground that DARAB has no jurisdiction due to the reclassification of the subject landholding as residential on March 29, 1961, by the city council of Davao City.[9]

The Provincial Adjudicator of Davao, Mardonio L. Edica denied the motion.[10] On July 28, 1998, Edica dismissed the case without prejudice.[11]

Petitioners[12] appealed to the DARAB which rendered a decision[13] dated October 26, 2000, the dispositive

portion of which reads:

> WHEREFORE, premises considered, the appealed decision dated July 28, 1998 is hereby REVERSED and SET ASIDE. A new judgment is rendered:
>
> 1. Declaring Plaintiff-Appellant Sofronio Ambayec and his late father Perfecto Ambayec as bona fide agricultural tenants on the subject property with an aggregate area of twenty four (24) hectares within Lot No. 483, Cad 102; originally covered by OCT-No. 0-703 in the name of Vicenta M. Tionko.
>
> 2. Ordering Respondents-Appellees and all other persons claiming rights under them to maintain Plaintiffs-Appellants in their peaceful possession and cultivation of the remaining ten (10) hectares of the subject property; and,
>
> 3. Ordering Plaintiffs-Appellants to religiously remit the landowner's share of the produce.
>
> 4. Directing the Municipal Agrarian Reform Officer (MARO) of Davao City where the landholding subject of controversy is situated to assist the parties in the preparation or execution of their leasehold contract.
>
> SO ORDERED.[14]

A motion for reconsideration[15] was filed but the same was denied.[16]

The Tionkos filed before the Court of Appeals a petition for certiorari which was treated as a petition for review.[17] On March 11, 2004, the appellate court held that Sofronio Ambayec and his heirs are not tenants of the Tionkos.

Hence the instant petition[18] on the following grounds:

> I
>
> THE COURT OF APPEALS ERRED IN REVERSING & SETTING ASIDE THE DECISION OF THE DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD RENDERED ON OCTOBER 26, 2000;
>
> II
>
> THE COURT OF APPEALS ERRED IN DECLARING THAT SOFRONIO AMBAYEC AND HIS HEIRS ARE NOT TENANTS ON THE SUBJECT PROPERTY;
>
> III
>
> THE COURT OF APPEALS FAILED TO CONSIDER THAT THE LAW APPLICABLE IN THIS CASE IS PRESIDENTIAL DECREE NO. 27.

Petitioners aver that since time immemorial Sofronio Ambayec was in open and continuous possession of the disputed land. When the land was fully cleared and cultivated, Vicente Tionko claimed ownership over the property and forced Sofronio to share its produce. Sofronio acceded to the demands of Vicente because he was rich and influential. Upon the death of the spouses Tionko, the disputed landholding was transferred to Maria Judith Tionko, whose husband, Salvador de la Cruz, caused the bulldozing of the coconut trees and other fruit trees planted on the land.

Petitioners submitted a certification dated August 6, 1983 by Land Inspector Amil H. Sappari of the Bureau of Lands, that Sofronio Ambayec was recognized as full tenant of subject lot,[19] and a similar certification by the Ministry of Agrarian Reform (MAR) Regional Director Leopoldo Serrano.[20]

The petition lacks merit.

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To determine whether tenancy relationship exists, the concurrence of all the following essential requisites must be established by substantial evidence:[21]

> ... 1) that the parties are the landowner and the tenant or agricultural lessee; 2) that the subject matter of the relationship is an agricultural land; 3) that there is consent between the parties to the relationship; 4) that the purpose of the relationship is to bring about agricultural production; 5) that there is personal cultivation on the part of the tenant or agricultural lessee; and 6) that the harvest is shared between the landowner and the tenant or agricultural lessee.

All these essential requisites are necessary to establish tenancy relationship. Unless a person has established his status as a de jure tenant, he is not entitled to security of tenure nor is he covered by the Land Reform Program of the Government under existing tenancy laws.[22]

The certifications issued by the Bureau of Lands and the MAR that Sofronio is a recognized tenant has no probative value. The declaration of tenancy relationship in the said certifications is a conclusion unsupported by adequate proof. The certification by Land Inspector Amil Sappari was issued upon the request of Sofronio Ambayec for a survey of the land he was occupying, and not for the purpose of determining the tenurial status of Sofronio.[23] The certification reads:

> August 6, 1983
>
> TO WHOM IT MAY CONCERN:
>
> This is to Certify that, I have been (sic) conducted inspection and investigation (sic) the lands occupied by Mr. Sofronio Ambaic, located at Torres and Mabini street, infront of the Davao City High School or within a lot No. 483, Cad-102, containing an area 731,696 square meters or less. For explanatory to wit: (sic)
>
> - That Mr. Sofronio Ambaic is recognized full Tenant in the said land, since the time immemorial;
>
> - That the (sic) have been in the continous (sic) and undisturbed possession occupation (sic) and cultivation on (sic) the said land;
>
> - As a Tenant he have (sic) never loss (sic) his hope and right to have a share of the said land.
>
> Now therefore Mr. Sofronio Ambaic be given due course.
>
> Very truly yours,
>
> (Sgd.)
> AMIL H. SAPPARI
> Land Inspector[24]

On the other hand, the certification issued by the MAR Regional Director provides:

> CERTIFICATION
>
> TO WHOM IT MAY CONCERN:
>
> This Certify (sic) that Mr. Sofronio Ambaic, as a Tenant of Lot No. 483, Cad-102, containing an area of 731,696 square meters more or less, located at Poblacion, Davao City, that Mr. Ambaic, (sic) be given due course in consonant to the letter which was certified by Land Inspector Amil H. Sappari of the Bureau of Lands District Office No. XI-14, Davao City.
>
> (Sgd.)
>
> ATTY. LEOPOLDO SERRANO

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> MAR, Regional Director
> Region XI, Davao City[25]

In Bautista v. Araneta,[26] reliance on a similar certification for failure to disclose how and why petitioner therein became a tenant was rejected -

> His reliance on the certifications issued in his favor is misplaced because they do not prove that the landowner made him his tenant. As the Court of Appeals aptly observed, they only show that petitioner is in possession of the land. The certifications do not disclose how and why he became a tenant. Thus, the certification dated July 12, 1991, issued by Virginia B. Domuguen that petitioner is a tenant and pays rental of forty (40) cavans per year, and, her finding in the ocular inspection conducted on May 3, 1991, are culled only from her interview of petitioner and the Barangay Captain of Tungkong Mangga, Romeo G. Baluyot. In no way do they prove the oral tenancy agreement between petitioner and the landowner.[27]

Certifications issued by administrative agencies and/or officials concerning tenancy relationship are preliminary and are not binding on the courts.[28]

The petitioners failed to adduce sufficient evidence to prove that Sofronio Ambayec was a tenant of the spouses Tionko. Other than the bare declaration that he was the encargado of the Tionkos, the affidavits executed by the petitioners do not clearly show that Sofronio was a tenant of the Tionkos.

Occupancy and continued possession of the land does not make a de jure tenant. It is essential that, together with the other requisites of tenancy relationship, the agricultural tenant must prove that he transmitted the landowner's share of the harvest.

As correctly held by the Court of Appeals:

> We agree with petitioners that private respondents failed to establish all the elements of tenurial relationship. Section 5(a) of Republic Act No. 1199 defines a tenant as a person who by himself, or with the aid available from within his immediate household, cultivates the land belonging to or possessed by another, with the latter's consent for purposes of production, sharing the produce with the landholder under the share tenancy system, or paying to the landholder a price certain or ascertainable in produce or in money or both, under the leasehold tenancy system. It is interesting to note that nowhere in the documentary evidence of private respondents, which consist of their affidavits, does it appear that Sofronio Ambayec shared the produce on the subject property with petitioners.[29]

We held in Isidro v. Court of Appeals[30] that:

> Based on the statutory definitions of a tenant or a lessee, it is clear that there is no tenancy or agricultural/leasehold relationship existing between the petitioner and the private respondent. There was no contract or agreement entered into by the petitioner with the private respondent nor with the overseer of the private respondent, for petitioner to cultivate the land for a price certain or to share his harvests. Petitioner has failed to substantiate his claim that he was paying rent for the use of the land.

Petitioners' claim of tenancy relationship was further weakened by the inconsistent and contradictory claims of Sofronio and Cleotilde Ambayec. Cleotilde claimed that they owned the coconut trees planted on the disputed land despite her allegation that her husband was merely a tenant. When they intervened[31] in the case[32] pending before the Bureau of Lands, they claimed that they have been in open, adverse, continuous and exclusive possession of the disputed land in the concept of owners, contrary to their claim of being mere tenants.

We find that no tenancy relationship was established based on petitioners' narration that their predecessors cleared and cultivated the disputed property but was usurped by the Tionkos who were influential and prominent. Clearly, it appears that there was no consent between the parties as to the tenancy relationship.

Tenancy is not a purely factual relationship dependent on what the alleged tenant does upon the land. It is also a legal relationship. The intent of the parties, the understanding when the farmer is installed, and their written agreements, provided these are complied with and are not contrary to law, are even more important.[33]

Thus, for failure to substantiate their claim as bona fide tenants, petitioners' invocation of the tenurial rights under P.D. 27 or similar tenancy laws has no leg to stand on.

WHEREFORE, the petition is DENIED. The decision of the Court of Appeals in CA-G.R. SP No. 68993 dated March 11, 2004 is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

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[1] CA Rollo, pp. 49-55.

[2] Docketed as CAR Case No. 3121.

[3] Ambaic in some parts of the records.

[4] CA Rollo, pp. 56-74.

[5] Judiciary Reorganization Act of 1980.

[6] CA Rollo, pp. 126-127.

[7] The Comprehensive Agrarian Reform Law of 1988.

[8] CA Rollo, p. 128.

[9] Id. at 137-142.

[10] Id. at 145-148.

[11] Id. at 168-173.

[12] Heirs of Sofronio Ambayec who died on October 1, 1991. Rollo, pp. 52-55.

[13] CA Rollo, pp. 21-28.

[14] Id. at 27-28.

[15] Id. at 29-35.

[16] Id. at 47-48.

[17] Id. at 2-20.

[18] Rollo, pp. 7-13.

[19] Id. at 192.

[20] Id. at 191.

[21] Laguna Estates Development Corporation v. CA, 390 Phil. 326, 336 (2000).

[22] Bautista v. Araneta, 383 Phil. 114, 123 (2000).

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[23] Rollo, p. 193.

[24] Id. at 192.

[25] Id. at 191.

[26] Supra.

[27] Id. at 123-124.

[28] Cuaño v. Court of Appeals, G.R. No. 107159, 26 September 1994, 237 SCRA 122, 137.

[29] CA Rollo, pp. 308-309.

[30] G.R. No. 105586, 15 December 1993, 228 SCRA 503, 512.

[31] CA Rollo, pp. 96-103.

[32] For Annulment of Patent of Lot 483 Cadastral Survey of Davao, Cad. 102.

[33] Isidro v. Court of Appeals, supra, p. 511.

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