

**ALEJANDRO MORAGA, REPRESENTED BY ENRIQUE MORAGA,
PETITIONER, VS. SPS. JULIAN AND FELICIDAD SOMO, SPS.
REYNALDO AND CARMELITA FERNANDEZ, AND GIL AND
HERMINILDO SAN DIEGO RESPONDE...**

G.R. NO. 166781. September 05, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This Petition for Review under Rule 45 of the Rules of Court, filed by petitioner Enrique Moraga, seeks to nullify and set aside the 23 April 2004 Decision[1] and 11 January 2005 Resolution of the Court of Appeals in CA-G.R. SP No. 70051 which reversed and set aside the Decision of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB Case No. 5086 dated 11 January 2001.

The property in dispute is a parcel of agricultural land consisting of 1.7467 hectares which is located in Pandayan, Meycauayan, Bulacan, and covered under Transfer Certificate of Title (TCT) No. T-5926 in the name of Victoriano Ipapo who died on 6 June 1976. This property was tenanted by Alejandro Moraga, the deceased father of petitioner Enrique Moraga.

On 7 March 1973, Victoriano Ipapo sold the landholding to his daughters Felicidad, Carmelita, and Herminigilda, and their respective spouses, Julian Somo, Reynaldo Fernandez and Gil San Diego (respondents) for P10,000.00 per Bilihan Tuluyan of even date.

Inasmuch as an affidavit of consent of the tenant is required by the agrarian laws in the transfer of title, Alejandro Moraga on 19 November 1979 executed a Sinumpaang Salaysay admitting that he had knowledge and consent of the sale. Thus, on 19 November 1979, a new certificate of title over the disputed land, TCT No. T-29031 (M), was issued in favor of the respondents.

Unknown to respondents, on 22 July 1981, a Certificate of Land Transfer (CLT) No. 0-042737 was issued in favor of Alejandro Moraga for the same parcel of agricultural land. On the basis of such CLT, Alejandro Moraga, on 3 November 1993, filed an application for the issuance of Emancipation Patent (EP) over the land in question before the Provincial Assessor of Bulacan. Apparently, respondents belatedly filed a written protest of the application since on 16 September 1993, EP No. 496453 was granted to Alejandro Moraga, and pursuant to which TCT No. EP-108(M) was likewise issued in his favor.

On 11 October 1993, respondents filed with the DARAB a complaint for Cancellation of the Certificate of Land Transfer and the Emancipation Patent and for Ejectment against Enrique and Mercedes Moraga (Moragas), the surviving heirs of the late Alejandro Moraga who died on 25 August 1993. Mercedes Moraga is the surviving spouse of the deceased Alejandro Moraga. The case was docketed as DARAB Case No. 567- Bul '93.

Respondents alleged in their complaint, among other things, the following: (1) that the proceedings leading to the issuance of the CLT in favor of Alejandro Moraga were irregular, i.e., the issuance of such CLT was based on a

fraudulent or false certification of the Provincial Assessor of Bulacan stating that the total landholding of their predecessor-in-interest, Victoriano Ipapo, was 9.2986 hectares, when in truth and in fact, it was only 6.3197 hectares, (2) that the CLT was issued in violation of respondents' and/or Victoriano Ipapo's retention rights, 3) that the tenants, the Moragas violated their obligations as tenants.

Finding that the EP was issued not in accordance with Presidential Decree No. 27 and that the Moragas violated their obligations as tenants of the subject landholding, the Provincial Adjudicator, in a decision dated 30 June 1994, rendered a judgment in favor of respondents. The dispositive portion of the decision reads:

WHEREFORE, premises considered judgment is hereby rendered as follows:

- Finding the landholding of the late Victoriano Ipapo not covered by P.D. 27. Accordingly, EP No. 496453 issued in favor of Alejandro Moraga is hereby recalled and cancelled.
- Ordering defendant Alejandro Moraga and all other persons acting in his behalf to vacate the premises in question for the peaceful possession of the plaintiff.[2]

The Moragas filed a motion for reconsideration which was denied for lack of merit.

The Moragas then appealed to the Court of Appeals.

In the meantime, respondents filed an application for retention with the Department of Agrarian Reform (DAR) which was opposed by petitioner Enrique Moraga. In an Order dated 22 February 1994, the Regional Director of DAR Region III granted the application for retention by respondents.

Petitioner appealed to the Secretary of Agrarian Reform who affirmed the decision of the Regional Director in an Order dated 14 October 1994.

Unfazed, petitioner appealed the ruling of the Secretary of Agrarian Reform to the Court of Appeals. Said appealed ruling of the Secretary of Agrarian Reform was consolidated by the Court of Appeals with the appealed decision of the DARAB in Case No. 567-Bul '93. The consolidated cases were docketed as CA- G.R. No. SP No. 38445.

In a Decision dated 28 September 1995, the Court of Appeals dismissed the two appeals in CA-G.R. SP No. 38445, thus affirming the rulings of the DARAB and the Secretary of Agrarian Reform. The decision became final and executory since no either motion for reconsideration nor appeal from the same were ever filed by any party.

While the CA-G.R. SP No. 38445 was still pending before the Court of Appeals, petitioner and Mercedes Moraga, on 6 April 1995, filed before the Provincial Adjudicator of Malolos, Bulacan, a complaint for Redemption against respondents which was docketed as DARAB Case No. 927-Bul '95. The complaint alleged that upon Alejandro Moraga's death, the Moragas succeeded Alejandro Moraga as tenants over the parcel of land that is the subject of the controversy. It was likewise averred that the sale entered into between Victoriano Ipapo and respondents on 7 March 1973, involving the said property, was made without the written notice given to Alejandro Moraga and the DAR, in violation of Section 2 of Republic Act No. 3844, as amended by Republic Act No. 6389. Within the purview of the said provisions of law, the Moragas were exercising their right of redemption over the said landholding.

In a Decision dated 23 November 1995, the Provincial Adjudicator, taking into consideration the earlier ruling of the Court of Appeals in CA-G.R. SP No. 38445, which affirmed the judgment of the DARAB ordering Alejandro Moraga to vacate the premises of land in question and the order of the Secretary of Agrarian Reform granting respondents' application for retention, opined that the case for redemption has been rendered moot and academic

inasmuch as respondents, by virtue of the said ruling of the Court of Appeals, had acquired vested rights over the subject property. Accordingly, such vested rights entitled respondents to exercise all the attributes of ownership, hence, said property is beyond the reach of redemption. The Provincial Adjudicator further argued that even if the action for redemption may be availed of, the same is still barred by prescription considering that the Moragas exercised the said right only after 22 years had lapsed.

On appeal, the DARAB in Case No. 927-Bul '95 affirmed with modification the decision of the Provincial Adjudicator. The DARAB, while sustaining the Provincial Adjudicator's ruling that the Moragas' right to redeem has prescribed, stated that the heirs of Alejandro Moraga shall remain as tenants and are entitled to security of tenure, to wit:

WHEREFORE, premises considered, the appealed decision is hereby MODIFIED declaring the heirs of the late Alejandro Moraga, herein plaintiffs, are not entitled to redeem the subject property. However, they shall remain as tenants thereof entitled to security of tenure.[3]

The Moragas filed a motion for reconsideration of the foregoing decision denying their claim for redemption.

Respondents likewise filed a motion for reconsideration of the said decision insofar as it decreed that Alejandro Moraga's heirs shall "remain tenants entitled to security of tenure."

Both motions were denied by the DARAB.

Hence, both parties appealed to the Court of Appeals.

The appeal of the Moragas which assailed the DARAB decision denying their claim for redemption was docketed as CA-G.R. SP No. 63895, while the appeal of respondents questioning the DARAB decision ordering the heirs of Alejandro Moraga to "remain as tenants entitled to security of tenure" was docketed as CA-G.R. SP No. 70051.

In a decision dated 29 January 2003, the Special Third Division of the Court of Appeals rendered a judgment in CA-G.R. SP No. 63895 affirming in toto the decision of the DARAB. Since no appeal was filed by either party, this decision became final and executory.

On the other hand, the Sixth Division of the Court of Appeals, in resolving the sole issue in CA-G.R. SP No. 70051 on whether or not the DARAB is correct in ordering that the heirs of Alejandro Moraga remain as tenants in the subject landholding, ruled for the respondents. It ratiocinated that the DARAB committed palpable error in decreeing that Alejandro Moraga's heir "shall remain as tenants entitled to security of tenure" considering that the said ruling alters the already final and executory decision of the Court of Appeals in CA-G.R. SP No. 38445, enunciating that the Moragas are not entitled to security of tenure for violating their obligations as tenants.

Undeterred, petitioner filed a motion for reconsideration of the above decision. The Court of Appeals did not budge from its stand and denied the motion in a Resolution dated 11 January 2005.

Hence, the instant petition.

Petitioner submitted the following issues:

A

WHETHER OR NOT PETITIONER HAS A RIGHT OF REDEMPTION OVER THE LANDHOLDING SUBJECT OF THE INSTANT CASE;

B

IF IN THE NEGATIVE, WHETHER OR NOT PETITIONER SHALL REMAIN AS TENANT OF THE LANDHOLDING ENTITLED TO SECURITY OF TENURE;

C

WHETHER OR NOT RESPONDENTS HAVE A LEGAL RIGHT TO EJECT PETITIONER FROM THE LANDHOLDING IN QUESTION;

D

IF IN THE AFFIRMATIVE, WHETHER OR NOT PETITIONER IS ENTITLED TO DISTURBANCE COMPENSATION.[4]

As gleaned from the issues presented by petitioner, it is quite evident that petitioner would want this Court to revisit the final and executory decisions of the Court of Appeals in CA-G.R. SP No. 38445, where petitioner's claim of security of tenure was settled, and in CA-G.R. SP No. 63895 which resolved petitioner's complaint for redemption. However, this cannot be done by this Court without violating the doctrine of res judicata.

In *Spouses Barretto v. Court of Appeals*,^[5] this Court elucidated the doctrine of res judicata in this fashion:

Section 47, Rule 39 of the Rules of Court, provides:

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:

x x x x

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and

(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.

The aforecited rule in point embodies the fundamental principles of res judicata, finality of judgment and estoppel by judgment, which means that once a judgment has become final and executory, the issues therein litigated upon are laid to rest.

The doctrine of res judicata is of two aspects. The first aspect is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action. The second aspect precludes the relitigation of a particular fact or issue in another action between the same parties or their successors in interest, on a different claim or cause of action.

Calalang v. Register of Deeds of Quezon City^[6] further explained:

The doctrine res judicata actually embraces two different concepts: (1) bar by former judgment and (b) conclusiveness of judgment.

The second concept - conclusiveness of judgment -states that a fact or question which was in issue in a former suit and was there judicially passed upon and determined by a court of competent jurisdiction, is conclusively settled by the judgment therein as far as the parties to that action and persons in privity with them are concerned and cannot be again litigated in any future action between such parties or their privies, in the same court or any other court of concurrent jurisdiction on either the same or different cause of action, while the judgment remains unreversed by proper authority. It has been held that in order that a judgment in one action can be conclusive as to a particular matter in another action between the same parties or their privies, it is essential that the issue be identical. If a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties or their privies will be final and conclusive in the second if that same point or question was in

issue and adjudicated in the first suit. x x x.

Res judicata is grounded on fundamental considerations of public and sound practice that at the risk of occasional error, the judgments of courts must become final at some definite date set by law.[7] After the judgment has become final, nothing can be done therewith; otherwise there can be no end to litigation, thus setting at naught the main role of courts, which is to assist in the enforcement of the rule of law and the maintenance of peace and order, by settling justiciable controversies with finality.[8]

In the case under consideration, it bears stressing that the Court of Appeals came out with its Decision, dated 28 September 1995, in CA-G.R. SP No. 38445, where the issue of security of tenure was resolved and was laid to rest. The pertinent decision of the DARAB which was affirmed by the Court of Appeals reads:

On the second issue, evidences adduced reveal that defendant Alejandro Moraga failed to pay rentals from 1990 up to the present. Under Presidential Decree 816, a tenant who deliberately refuses to pay rentals for two consecutive years can be ejected. Section 2 thereof provides:

"Any agricultural lessee of a rice or corn land under PD 27 who deliberately refuses and/or continues to refuse to pay rental or amortization payments when they fall due for a period of two years, shall [upon] hearing and [final] judgment, forfeit the certificate of land transfer issued in his favor, if his landholding is already covered by such certificate of land transfer."

Thirdly, tenant Alejandro Moraga aside from being remiss in paying his rental has allowed third person to occupy portions of his landholding without informing the landowners. These to the mind of the Board are acts inimical to the right and obligation of the tenant to pursue and protect his landholding from any trespassers or would be occupant without the knowledge and consent of the landowners. In this regard, the Board finds, defendant Alejandro Moraga to have violated his obligations as a tenant to warrant his ejectment therefore.

WHEREFORE, premises considered judgment is hereby rendered as follows:

x x x x

2. Ordering defendant Alejandro Moraga and all other persons acting in his behalf to vacate the premises in question for the peaceful possession of the plaintiff.[9]

Petitioner, however, insinuated that in the same decision for ejectment in CA-G.R. SP No. 38445, the Court of Appeals made a pronouncement that petitioner remains as tenant of the landholding, viz:

Finally, with the finding that the Emancipation Patent issued to Alejandro Moraga was void, petitioners' status will revert back to being tenants and thus are liable for the payment of the corresponding rentals, including the unpaid rentals which, from the evidence adduced, was from 1990.[10]

Contrary to what petitioner believed, the said portion of the body of the decision is merely an obiter dictum. In fact, the dispositive portion of the decision categorically upholds the eviction of petitioner. If indeed, it was pronounced in the said decision that petitioner were to remain as tenant, then the dispositive portion of the same would not have upheld petitioner's eviction. It should be remembered that while the body of a decision, order or resolution might create some ambiguity regarding which way the court's reasoning propenderates, it is the dispositive portion thereof that finally invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties and obligations.[11]

Since CA-G.R. SP No. 38445 resolved the issue of security of tenure and ordered petitioner's eviction, this Court can no longer entertain petitioner's attempt to re-litigate the same on the ground of res judicata.

In a zealous attempt to salvage his case for redemption, petitioner insisted that the late Victoriano Ipapo failed to

inform petitioner's deceased father in writing and the DAR of the sale of the land in question in violation of Section 12 of Republic Act No. 6389, amending Sections 11 and 12 of Republic Act No. 3844, to wit:

Sec. 12. Lessee's Right to Redemption. In case the landholding is sold to a third person without the knowledge of the agricultural lessee, the latter shall have the right to redeem the same at a reasonable price and consideration; Provided, that where there are two or more agricultural lessees, each shall be entitled to said right of redemption only to [the] extent of the area actually cultivated by him. The right of redemption under this Section may be exercised within one hundred eighty days from notice in writing which shall be served by the vendee on all lessees affected and the Department of Agrarian Reform upon the registration of the sale, and shall have priority over any other right of legal redemption. The redemption price shall be the reasonable price of the land at the time of the sale.

By raising this issue, petitioner is trying to resuscitate the decision of the Court of Appeals in CA- G.R. SP No. 63895, dated 29 January 2003, which has already attained finality. It must be recalled that said decision declared that petitioner lost his right to redeem the property on the grounds of prescription and that petitioner's father has waived his right to redeem said property. Relevant portion of the decision states:

It must be noted that the purpose of the written notice required by law is to remove all uncertainties as to the sale, its terms and its validity, and to quiet any doubts that the alienation is not definitive. The law however, does not prescribe any particular form of notice, nor any distinctive method for notifying the redemptioner. So long as the redemptioner is informed in writing of the sale and the particulars thereof, the period for redemption will start running. x x x A copy of the deed of sale, in an authentic form, will satisfy the requirement of the law and serve the purpose thereof.

It is worthy to note that the petitioners have secured a copy of the said Deed of Sale and attached the same in their Answer dated October 20, 1993 in DARAB Case No. 567-Bul '93. Thus, it is proper to reckon the period of redemption on October 20, 1993. The complaint filed on April 6, 1995 is clearly beyond the redemption period of one hundred eighty (180) days.

Even assuming that their right to redeem the property has not prescribed, however, by virtue of the Sinumpaang Salaysay executed by Alejandro Moraga on November 19, 1979, the latter is deemed to have waived his right to redeem the same. x x x.[12]

Said issue on redemption having attained finality, petitioner's effort to modify the same is barred by res judicata.

Petitioner, likewise, assails the 23 April 2004 Decision of the Sixth Division of the Court of Appeals in CA-G.R. SP No. 70051 as having effectively nullified the 29 January 2003 Decision of the Special Third Division of the Court of Appeals in CA-G.R. SP No. 63895, thereby ditching the principle of res judicata. According to petitioner, CA-G.R. SP No. 63895 affirmed the DARAB decision decreeing, among other things, that petitioner and his mother shall remain as tenants of the land in dispute and are entitled to security of tenure. Said ruling was allegedly reversed by CA-G.R. SP No. 70051 when the latter ruled in this manner:

In fine, the DARAB committed a palpable error in decreeing that Alejandro's heirs "shall remain as tenants (of the landholding) entitled to security of tenure." [13]

A scrutiny of the genesis of CA-G.R. SP No. 63895 and CA-G.R. SP No. 70051 is enlightening. As already mentioned, these two cases originated from a single complaint for redemption filed by petitioner and his mother before the Provincial Adjudicator of Malolos, Bulacan on 6 April 1995, docketed as DARAB Case No. 927-Bul '95. In the pleadings filed by petitioner before the Provincial Adjudicator, he did not raise the issue of security of tenure. Thus, the Provincial Adjudicator, in resolving the case confined his decision on the sole issue of whether petitioner and his mother can redeem the subject property. He ruled they cannot. When DARAB Case No. 927-Bul '95 was elevated to the DARAB, security of tenure was also a non-issue in the pleadings of the parties.

However, the DARAB, instead of confining itself to the sole issue at hand, veered away and ventured into the realm of an unraised question, i.e., the issue of security of tenure. This actuation of the DARAB prompted respondents to appeal to the Court of Appeals, docketed as CA-G.R. SP No. 70051, questioning the DARAB decision that ordered the heirs of Alejandro Moraga to "remain as tenants entitled to security of tenure."

On the other hand, petitioner appealed the same decision of the DARAB denying him the right to redeem the property. Petitioner's appeal was docketed as CA-G.R. SP No. 63895.

While the Court of Appeals in CA-G.R. SP No. 70051, limited itself to the issue presented by petitioner, the contrary happened in CA-G.R. SP No. 63895, when the Court of Appeals fell into the same pitfall as the DARAB in fiddling with the issue of security of tenure. This conduct of the DARAB and the Court of Appeals in CA-G.R. SP No. 63895 cannot be countenanced. First, it goes against the tenet that "courts of justice have no jurisdiction or power to decide a question not in issue."^[14] A judgment that goes outside the issues and purports to adjudicate something on which the court did not hear the parties, is not only irregular but also extra-judicial and invalid.^[15] This norm does not only apply to courts but also to quasi-judicial bodies such as the DARAB.^[16] Prescinding from this rule, the DARAB ruling on security of tenure, which was affirmed by the Court of Appeals in CA-G.R. SP No. 63895, is therefore irregular and invalid. From this disquisition, it is readily clear that the decision in CA-G.R. SP No. 63895 is valid only insofar as it ruled that petitioner can no longer exercise his right to redeem the said property. Res judicata is not applicable because CA-G.R. SP No. 63895, in effect, has no ruling on the issue of security of tenure which CA-G.R. SP No. 70051 could have modified.

Anent petitioner's claim of disturbance compensation, suffice it to state that since this matter is brought up for the first time in this Petition for Review, this Court cannot take cognizance of the same. The settled rule is that matters or issues not raised below cannot be raised before this Court for the first time.^[17]

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated 23 April 2004, and its Resolution dated 11 January 2005, in CA-G.R. SP No. 70051 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez and Callejo, Sr., JJ., concur.

[1] Penned by Associate Justice Edgardo P. Cruz with Associate Justices Delilah Vidallon-Magtolis and Noel G. Tijam, concurring.

[2] Rollo, p. 62.

[3] Id. at 87-88.

[4] Id. at 160-161.

[5] 381 Phil. 580, 588-589 (2000).

[6] G.R. No. 76265, 11 March 1994, 231 SCRA 88, 99.

[7] Alabanzas v. Intermediate Appellate Court, G.R. No. 74697, 29 November 1991, 204 SCRA 304, 308.

[8] Id.

[9] Rollo, pp. 61-62.

[10] Id. at 72.

[11] Dy Pac Pakiao Workers Union v. Dy Pac and Co., Inc., 148 Phil 271, 277-278 (1971).

[12] Rollo, p. 98.

[13] Id. at 42.

[14] Mon v. Court of Appeals, G.R. No. 118292, 14 April 2004, 427 SCRA 165, 171-172.

[15] Bernas v. Court of Appeals, G.R. No. 85041, 5 August 1993, 225 SCRA 119, 129.

[16] Department of Agrarian Reform v. Franco, G.R. No. 147479, 26 September 2005, 471 SCRA 74, 93.

[17] Id.

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