

MANUEL A. LUMAYOG, PETITIONER, VS. SPOUSES LEONARD PITCOCK AND CORAZON PITCOCK, RESPONDENTS.

G.R. No. 169628. March 14, 2012

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari[1] of the Court of Appeals' Decision[2] in CA-G.R. SP No. 74482 dated March 30, 2005 and its Resolution dated September 6, 2005, denying petitioner's motion for reconsideration.

The Court of Appeals affirmed the decision of the Regional Trial Court (RTC) of Lipa City, Branch 12, which held that no tenancy relationship existed between the parties and which affirmed the decision of the Municipal Trial Court in Cities (MTCC), ordering petitioner Manuel A. Lumayog, Sr. and his family to vacate the barn/stable of respondents Spouses Leonard and Corazon Pitcock and to return to respondents the possession of the same; to pay rent for the occupancy of the said premises in the amount of P1,000 per month from September 22, 2000 until the premises is vacated, and to pay attorney's fees.

The facts, as stated by the Court of Appeals, are as follows:

Respondents Spouses Leonard and Corazon Pitcock are the registered owners of a parcel of land containing an area of 81,351 square meters, situated in Barangay Talisay, Lipa City. The said parcel of land is covered by Transfer Certificate of Title (TCT) No. 69503[3] of the Register of Deeds for Lipa City. They constructed thereon perimeter fences and buildings, consisting of a farm house, employees' quarters, and the barn/stable for their racehorses. They employed Manuel A. Lumayog, Sr. as groom or sota for their horses, but he was subsequently replaced by his son, Manuel A. Lumayog, Jr.

On September 22, 2000, respondents filed with the MTCC of Lipa City a complaint[4] for unlawful detainer against petitioner, his wife and their nine (9) children in view of their refusal to vacate, despite demand, a portion of the barn/stable that they used as their temporary quarters, alleging that petitioner's employment as groom or sota was terminated for just cause in March 2000; that only petitioner was allowed by them, at his request, to use a portion of the barn/stable as his temporary quarters, subject to the condition that he would vacate the same when the space would be needed by respondents and upon the termination of petitioner's employment; and that in October 1999, they found out that petitioner allowed his wife and children to stay with him in his temporary quarters and petitioner promised to relocate his wife and children outside the farm.

In their Answer,[5] petitioner, his wife and children alleged that four of the children (Randy, Lina, Jeffrey and Veronica) were not residing on respondent's property; that Randy, Gerbel and Manuel, Jr. worked for respondents for many years, but only Manuel, Jr. received compensation; that Lina, Snooky and Wendy worked as housemaids for respondents, but they were not fully compensated; that petitioner ceased to be a paid laborer of respondents in 1992, but he was made to work as a tenant and he and the immediate members of his family planted different fruit-bearing trees; and that in view of the tenancy relationship between the parties, the court had no jurisdiction over the case.

On December 21, 2001, the MTCC rendered a Decision[6] in favor of respondents, the dispositive portion of which reads:

WHEREFORE, finding sufficient evidence to support the complaint for unlawful detainer, judgment is hereby rendered in favor of the plaintiffs and against all defendants Manuel Lumayog, Sr., Estrella Lumayog, Randy Lumayog, Manuel Lumayog, Jr., Gerbel Lumayog, Marlon Lumayog, Veronica Lumayog, Jeffrey Lumayog, Snooky Lumayog and Wendy Lumayog as follows:

- Ordering all the aforementioned defendants to vacate the barn/stable and to return possession thereof to the plaintiffs;
- Directing the defendants to, jointly and severally, pay the amount of P1,000.00 per month as reasonable rent for the use and occupancy of said premises computed from September 22, 2000 until the same is vacated and possession is returned to the plaintiffs;
- Ordering the defendants, jointly and severally, to pay the amount of P20,000.00 as and for attorney's fees plus an allowance of P2,000.00 per attendance in court hearing or trial;
- Ordering the defendants, jointly and severally, to pay the cost of suit.[7]

The MTCC stated that defendants, petitioner herein and his wife and children, were not being evicted from the land they claim to be tilling as alleged in their Answer, but the premises in question was the barn/stable of the racehorses of plaintiffs, respondents herein, allegedly being occupied, illegally, by the defendants.

Nevertheless, the MTCC stated that it was inclined to believe that defendants were not tenants based on the following:

In their special and affirmative defenses, defendants alleged that defendants Randy, Lina, Jeffrey and Veronica are not residing and staying at the subject premises but elsewhere in Bulacan and Cardona, Rizal, so they could not be considered tenants. The other women defendants worked as housemaids. Likewise, Randy and Gerbel worked but no evidence was presented to show that they worked as tenants. Manuel Lumayog, Jr. could not be considered a tenant because he was substituted as the groom or sota in place of his father and was being paid a salary.

Alex Mayor, a witness for the defendants, states in paragraph 7 of his sinumpaang salaysay (Exhibit 3) "na ito ay personal kong nalalaman dahil ako pa ang pinakiusapan ni Ka Maning na magtabas sa farm na iyon at magtanim ayon sa kagustuhan ni G. Pitcock." [8]

The main issue that the MTCC resolved was whether or not the plaintiffs, respondents herein, have the right to eject the defendants - petitioner and his family ? from a portion of the barn/stable of the plaintiffs which defendants are presently occupying.

The MTCC found that there was sufficient evidence to prove that the occupancy of the barn/stable was by mere tolerance of respondents. It held that even if there was tacit consent to petitioner and his family's occupancy thereof, the same may be lawfully terminated as provided under Section 1, Rule 70 of the Rules of Court.

The decision of the MTCC was affirmed, on appeal, by the RTC of Lipa City, Branch 12 in its Decision[9] dated December 1, 2002.

Petitioner filed a petition for review of the decision of the RTC before the Court of Appeals. On March 30, 2005, the Court of Appeals rendered a decision,[10] denying the petition for lack of merit.

The Court of Appeals stated that as pointed out by petitioner himself, citing *Sintos v. Court of Appeals*,[11] the essential elements of tenancy relationship are: (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 harvests. However, the Court of Appeals noted that petitioner failed to present any evidence to support the existence of their alleged tenancy relationship with respondents.

The appellate court drew attention to the Pre-Trial Order dated October 8, 2001 issued by the MTCC, which Order stated that the parties stipulated that respondents constructed on their property perimeter fences and buildings, consisting of a farm house, employees' quarters and barn/stable for their racehorses. The Court of Appeals held that such admission by petitioner supported respondents' claim that the subject property was purely devoted to commercial livestock, including the breeding and raising of horses used in polo games. It also noted that the tax declaration^[12] for the subject property for the year 2000 made no mention of plants or fruit-bearing trees thereon and only indicated building and fence as the improvements thereon. Thus, the Court of Appeals denied the petition for lack of merit.

Petitioner's motion for reconsideration was denied for lack of merit by the Court of Appeals in its Resolution^[13] dated September 6, 2005.

Hence, this petition raising the following issues:

I.

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN NOT HOLDING THAT THERE WAS TENANCY RELATIONSHIP BETWEEN THE PARTIES.

II

WHETHER THE SUPERVENING EVENT WHICH WAS THE SUBSEQUENT GRANT OF THE CERTIFICATE OF LAND OWNERSHIP AWARD (CLOA) TO HEREIN PETITIONER WOULD EXEMPT THE LATTER FROM THE COVERAGE OF RULE 70 OF THE REVISED RULES OF COURT.^[14]

Petitioner contends that in its Decision dated March 30, 2005, the Court of Appeals ruled that the subject property was purely devoted to commercial livestock, including the breeding and raising of horses used in polo games, and dismissed petitioner's petition for review.

Petitioner informs the Court that respondent Leonard Pitcock filed an application for the exclusion of his property covered by TCT No. 69598 from the coverage of the Comprehensive Agrarian Reform Program (CARP), pursuant to the Department of Agrarian Reform (DAR) Administrative Order No. 9, Series of 1993.

Petitioner submits that in an Order^[15] dated June 15, 2004, the DAR, after evaluation and inspection of the said property, denied respondent Leonard Pitcock's application for exclusion of the property from CARP coverage, and ordered thus:

WHEREFORE, premises considered, the herein Application for Exclusion from CARP coverage pursuant to Administrative Order No. 9, series of 1993 involving a parcel of land covered by TCT No. 69598 located at Brgy. Talisay, Lipa City, Batangas with an area of 7.9052 hectares is hereby DENIED. The MARO/PARO is hereby directed to immediately proceed with the acquisition and distribution of subject property to qualified program beneficiaries.^[16]

Petitioner contends that pursuant to the DAR Order dated June 15, 2004, he (petitioner) was granted TCT No. T-422^[17] under Certificate of Land Ownership Award No. 00751620 by the Land Registration Authority on November 26, 2004, covering a parcel of land (Lot 14394-B) containing an area of 29,054 square meters of the subdivision plan, Psd-04-003794 (AR) being a portion of Lot 14394, Cad. 218, Lipa Cadastre, situated in Barrio Talisay, Lipa City, Batangas Province. Tax Declaration of Real Property for the year 2005^[18] was subsequently

issued under petitioner's name.

Petitioner argues that by virtue of the pronouncement of the DAR which discussed petitioner's right as a tenant dating back to the time of the filing of the complaint for unlawful detainer, it is but just that he be exempt from the coverage of Rule 70 of the Rules of Court.

Petitioner contends that if the Court finds that this ejectment case was properly filed, his subsequent ownership of the land he had been tilling should be considered in determining the issue of possession. He states that in an action for ejectment, the only issue involved is possession de facto, but when the issue of possession cannot be decided without resolving the issue of ownership, the court may receive evidence upon the question of title to the property for the purpose of determining the issue of possession.

Under Section 1, Rule 45 of the Rules of Court, providing for appeals by certiorari before the Supreme Court, it is clearly enunciated that only questions of law may be set forth.[19] The question regarding respondent's tenancy status is factual in nature, which is not proper in a petition for review, where only questions of law may be entertained.[20] The Court may resolve questions of fact only in exceptional cases,[21] which is not present here. The Court upholds the finding of the Court of Appeals that petitioner failed to present any evidence to show that a tenancy relationship existed between petitioner and respondents Spouses Pitcock. *Jeremias v. Estate of the late Irene P. Mariano*[22] held:

Claims that one is a tenant do not automatically give rise to security of tenure. The elements of tenancy must first be proved in order to entitle the claimant to a security of tenure.

A tenant has been defined under Section 5 (a) of Republic Act No. 1199, otherwise known as the Agricultural Tenancy Act of the Philippines, as a person, who, himself, and with the aid available from within his immediate farm 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 system.

This Court had once ruled that self-serving statements regarding tenancy relations could not establish the claimed relationship. The fact alone of working on another's landholding does not raise a presumption of the existence of agricultural tenancy. Substantial evidence entails not only the presence of a mere scintilla of evidence in order that the fact of sharing can be established; there must also be concrete evidence on record that is adequate to prove the element of sharing. In fact, this Court likewise ruled that to prove sharing of harvests, a receipt or any other evidence must be presented; self-serving statements are deemed inadequate.[23]

In respondents' Supplemental Memorandum with Prayer for the Dismissal of the Petition[24] filed on October 20, 2009, respondents brought to the attention of the Court that respondent Leonard Pitcock filed before the Court of Appeals a petition for certiorari,[25] contending that public respondent DAR committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying his application for exclusion of their landholding from the coverage of the CARP, and seeking the reversal and nullity of the DAR Orders dated June 15, 2004 and January 11, 2007. The said case was docketed as CA-G.R. SP No. 97763 and entitled *Spouses Leonard and Corazon Pitcock v. Manuel Lumayog, Kilusang Mamamayan ng Batangas*.

Respondents contend that the issues presented for resolution by petitioner are now moot and academic in view of the Court of Appeals' decision dated September 24, 2008 in CA-G.R. SP No. 97763, ruling that the subject landholding is exempt from the coverage of the CARP, not being an agricultural land. The Court of Appeals, in CA-G.R. SP No. 97763, held:

The evidence on record shows that the subject landholding has been exclusively developed and devoted for livestock raising by the petitioners from the date of their acquisition on July 6, 1988. Based on the Report of

the MARO, PARO and the CLUPPI-2, it is clear that a greater portion of the landholding utilized for grazing and breeding horses while only the eastern portion has been planted with coffee, cassava, bananas and other seasonal crops. There is nothing in the evidence presented that the subject landholding was ever utilized for agricultural purposes.

Even the tax declarations in the name of the petitioners where the subject landholding was classified as cocoland and riceland are not sufficient evidence to prove that the subject landholding was utilized for agricultural purposes. There is no law or jurisprudence that holds that the classification embodied in the tax declarations is conclusive and final nor would proscribe any further inquiry. Furthermore, the tax declarations are clearly not the sole basis of the classification of a land. Thus, we give more faith and credence to the findings of the MARO, PARO and CLUPPI-2 that the land has been utilized for livestock farming in the absence of any apparent irregularity in the ocular inspections made on the subject property.

Moreover, the affidavits of petitioner Leonard Pitcock, Cong. Espina and Alejandro Espiritu constitute substantial evidence of the utilization of the subject land prior to the acquisition thereof by the petitioners. These affidavits are acceptable form of evidence and are considered as the affiants' direct testimonies which private respondent Lumayog failed to refute especially when, in the affidavit of the petitioner Leonard Pitcock, it was stated that private respondent Lumayog was working as groom at the Manila Polo Club when he was hired by the petitioners as a groom for their race horses.

All told, the DAR Secretary committed grave abuse of discretion amounting to lack or excess of jurisdiction when he issued the assailed orders including the subject landholding within the coverage of CARP on the basis of the guidelines provided for in DAR Administrative Order No. 9, Series of 1993, which had been duly declared by the Supreme Court as unconstitutional. The ruling in the cases of Luz Farms and Natalia Realty, Inc. v. DAR was emphatic on the exemption from CARP of land devoted to residential, commercial and industrial purposes without any qualifications.

WHEREFORE, in view of the foregoing premises, the petition for certiorari filed in this case is hereby GRANTED. The assailed Orders dated June 15, 2004 and January 11, 2007 of the Secretary of the Department of Agrarian Reform are hereby SET ASIDE.[26]

Lumayog's motion for reconsideration of the Decision dated September 24, 2008 in CA-G.R. SP No. 97763 was denied by the Court of Appeals in a Resolution[27] dated February 25, 2009.

Lumayog appealed the Court of Appeals Decision dated September 24, 2008 and its Resolution dated February 25, 2009 in CA-G.R. SP No. 97763 before this Court via a petition for review on certiorari, docketed as G.R. No. 186986. On July 13, 2009, the First Division of this Court issued a Minute Resolution in G.R. No. 186986, resolving, thus:

Considering the allegations, issues, and arguments adduced in the petition for review on certiorari of the Decision and Resolution dated 24 September 2008 and 25 February 2009, respectively, of the Court of Appeals in CA-GR SP No. 97763, the Court further resolves to DENY the petition for failure of petitioner to sufficiently show that the Court of Appeals committed any reversible error in the challenged decision and resolution as to warrant the exercise of this Court's discretionary appellate jurisdiction.[28]

No motion for reconsideration of the Minute Resolution was filed by Manuel Lumayog. The said Minute Resolution dated July 13, 2009 in G.R. No. 186986 became final and executory on September 4, 2009.

The Court's denial of the petition in G.R. No. 186986 renders the decision of the Court of Appeals in CA-G.R. SP No. 97763 final and executory. Petitioner cannot find support in the DAR Order dated June 15, 2004 to establish his tenancy relationship with respondents Spouses Pitcock, since the issue resolved therein was not the existence of a tenancy relationship between petitioner and respondents, but whether or not the subject property of

respondents may be excluded from the coverage of the CARP pursuant to DAR Administrative Order No. 9, Series of 1993. Contrary to petitioner's allegation, the DAR Order dated June 15, 2004 did not discuss petitioner's right as a tenant dating back to the time of the filing of the complaint for unlawful detainer.

More importantly, the Court notes that in the Complaint, the premises from which petitioner and his family were sought to be ejected was the barn/stable of respondents. Thus, the MTCC stated:

x x x "The allegations in the complaint clearly show that [the] instant case is for unlawful detainer xxx. The premises in question in this case is the barn/stable of the racehorses of the plaintiffs allegedly being occupied, illegally, by the defendants."

Defendants are not being evicted from the land they claim to be tilling as alleged in their Answer x x x.

x x x x

x x x [T]he court is inclined to believe that defendants are not tenants as defined under Republic Act No. 3844 nonetheless the court must resolve only the issues pertinent to this case. After a perusal of the case, the court finds that there is sufficient evidence to prove that the occupancy of the barn/stable by the defendants is by mere tolerance of the plaintiffs. Even if there was tacit consent to defendant's occupancy, the same may be lawfully terminated as provided under Section 1 of Rule 70 of the Rules of Court. x x x[29] (Emphasis supplied.)

It must be pointed out that the Pre-trial Order[30] dated October 8, 2001 of the MTCC stated that both parties agreed to stipulate, among others, that (1) respondents, in 1988, bought a parcel of land covered by TCT No. 69598, situated in Barangay Talisay, Lipa City, for commercial livestock, including the breeding and raising of horses used in polo games; and (2) respondents caused to be constructed perimeter fences and built buildings consisting of a farm house, employees quarters and barn/stable for their racehorses. Therefore, petitioner and his family admitted the existence of the barn/stable in the subject property, which property they also admitted was owned by respondents. The MTCC ruled that the occupancy of the barn/stable by petitioner was by mere tolerance of respondents; hence, it ordered petitioner and his family to vacate the same and to pay monthly rent in the amount of P1,000.00 from September 22, 2000 until the premises is vacated. The decision of the MTCC was affirmed, on appeal, by the RTC of Lipa City, Branch 12 in its Decision[31] dated December 1, 2002 and by the Court of Appeals in its Decision dated March 30, 2005.

To reiterate, the issue on whether or not a tenancy relationship exists between petitioner and respondents, which is raised before this Court, is factual in nature. This Court is not a trier of facts. The factual finding of the lower courts and the Court of Appeals that no tenancy relationship existed between petitioner and respondents is conclusive upon this Court.

Further, the supervening event which was the grant of the Certificate of Land Ownership Award to petitioner does not exempt petitioner from the coverage of Rule 70 (Forcible Entry and Unlawful Detainer) of the Rules of Court, as the premises involved in this case is the barn/stable of the racehorses of the respondents being occupied, illegally, by the petitioner, which premises are located at the western portion of the property, while the area allegedly planted with crops and occupied by petitioner is located at the northeastern and eastern portions of the property.[32]

WHEREFORE, the petition is DENIED for lack of merit. The decision of the Court of Appeals in CA-G.R. SP No. 74482 dated March 30, 2005, and its Resolution dated September 6, 2005, are hereby AFFIRMED.

No costs.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Marina L. Buzon, with Associate Justices Mario L. Guariña III and Santiago Javier Ranada, concurring; rollo, pp. 113-117.

[3] Annex “A,” records, p. 7.

[4] Entitled Spouses Leonard Pitcock and Corazon Pitcock v. Manuel Lumayog, Sr., Estrella Lumayog, Randy Lumayog, Lina Lumayog, Manuel Lumayog, Jr., Gerbel Lumayog, Marlon Lumayog, Veronica Lumayog, Jeffrey Lumayog, Snooky Lumayog and Wendy Lumayog.

[5] Records, p. 53.

[6] Rollo, pp. 75-83.

[7] Id. at 82-83.

[8] Id. at 82. (Emphasis supplied.)

[9] Id. at 99-104.

[10] Id. at 113-117.

[11] 316 Phil. 278, 284 (1995).

[12] CA rollo, p. 30.

[13] Rollo, p. 123.

[14] Id. at 17.

[15] Id. at 124-128.

[16] Id. at 127-128.

[17] Id. at 129.

[18] Id. at 131.

[19] Tayco v. Heirs of Concepcion Tayco-Flores, G.R. No. 168692, December 13, 2010, 637 SCRA 742, 747.

[20] Pascual v. Court of Appeals, 422 Phil. 675, 682 (2001).

[21] Tayco v. Heirs of Concepcion Tayco-Flores, supra note 19.

[22] G.R. No. 174649, September 26, 2008, 566 SCRA 539.

[23] Id. at 551.

[24] Rollo, pp. 208-212.

[25] Under Rule 65 of the Rules of Court.

[26] Rollo, pp. 224-225.

[27] Id. at 228-229.

[28] Id. at 230.

[29] MTCC Decision, id. at 81-82.

[30] Records, p. 127.

[31] Rollo, pp. 99-104.

[32] See the DAR Order dated June 15, 2004, id. at 124-128, and the Decision of the Court of Appeals dated September 24, 2008 in CA-G.R. SP No. 97763, id. at 213-226. (Emphasis supplied.)

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