

**ROXAS Y CIA, PETITIONER, VS. HON. JOSE R. CABATUANDO, ET AL.,
RESPONDENTS.***G.R. No. 16963. April 26, 1961*

Ponente: BAUTISTA ANGELO, J.

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Petitioner seeks the review of a decision and resolution of respondent agrarian court dismissing its counterclaim to eject its tenants from their landholdings.

Petitioner is a mercantile partnership which owns a parcel of land known as Hacienda Caylaway situated in Nasugbu, Batangas, while respondents are its tenants. On the land which the tenants are working stand coconut trees which were placed under their care and surveillance. Said tenants during the early days of their employment reaped all the produce of the crops they planted between the rows of coconut trees but did not share in the coconut produced therefrom although they were enjoined to protect them from injury or harm that may come from persons and animals. Later, however, petitioner became interested in sharing in the auxiliary crops produced by the tenants with the result that a contract was entered into between them in 1953 whereby it was agreed that petitioner be given one-sixth of the crops to be harvested subject to the condition, that the tenants will not share in the coconuts because their only obligation was to prevent the destruction of the trees and had nothing to do with their cultivation, planting of seedlings, gathering, and husking of coconut fruits.

Acting on the belief that the contract they have entered into is contrary to morals and public policy as provided for in Section 11 of Republic Act No. 1199, in that they were deprived of their share in the coconut produce, the tenants filed a petition before, the agrarian court praying that said contract be declared null and void and that an order be issued directing the execution of a new contract for a new sharing of the produce in accordance with law. In its answer, petitioner averred that the contract it entered into with its tenants is valid and that the same is limited to the palay and other crops that the latter may plant to the exclusion of the coconut produce. And alleging that the tenants did not deliver its share in the auxiliary crops for three years (1955-1957), by way of counterclaim it prayed that the court issue an interlocutory order requiring the tenants to render a full accounting of their produce for said years and deliver to it its share. Petitioner likewise prayed that the tenants and their privies be ejected from the land.

On September 23, 1958, the agrarian court issued an order directing the tenants to make a full accounting of their harvests for the years above-mentioned, and having complied with said directive, they were ordered to deliver to petitioner its due share. However, on April 27, 1959, the tenants prayed that the payment of petitioner's share in arrears be deferred because they were not in a position to do so, but the request was denied.

After hearing, the court rendered decision holding that the tenants are not entitled to share in the produce of the coconuts growing in their respective landholdings while ordering the tenants to deliver to petitioner its share in arrears in line with its previous order. And because the decision failed to pass on the question relative to the ejectment of the tenants as prayed for in its counterclaim, petitioner filed a motion for reconsideration the denial

of which led to the filing of the present petition for review.

The main issue to be determined is whether the agrarian court erred in not ejecting the tenants from their landholdings as prayed for by petitioner considering their admission that they failed to deliver the share corresponding to petitioner during the agricultural years 1955-1957.

We are inclined to hold the negative. It should be noted that under our law and jurisprudence mere failure of a tenant to pay the landholder's share does not necessarily give the latter the right to eject the former when there is lack of deliberate intent on the part of the tenant to pay, or there is failure of crop due to fortuitous event.[1] In the instant case we believe that if respondents did not deliver to petitioner its share they did so in good faith, and not with the deliberate intent to deprive petitioner thereof for, having entertained serious doubt as to the legality of their contract relative to their non-sharing in the coconut produce, they decided to withhold the share of petitioner so that in the event that it will file an action against them the controversy may be settled in court. This act of good faith or non-deliberate failure to deliver petitioner's share they manifested when, because of the indifferent and adamant attitude of petitioner to institute an action against them during the period of three years, respondents initiated the present action to settle once and for all the controversy existing between them. And when the agrarian court ordered said tenants to make a full accounting of their harvests for the years in question, they not only voluntarily acceded thereto but even assured the court that they will pay petitioner's share if it wins this case.

Moreover, there is evidence on record showing that the harvests during the agricultural years in question were so meager that the share of the hacienda was very negligible; that in previous years (1950-1952) petitioner waived its share when the harvests were poor; and that In spite of the fact that the tenants withheld the share of petitioner for three consecutive years, the latter did not institute an action for its recovery or for the ejectment of its tenants. These circumstances, we believe, cannot but affect adversely the cause of petitioner, or its sincerity to eject them from the land, for it is indeed unnatural that in spite of their failure to pay petitioner its share for three years it took no action one way or the other until the tenants initiated the present action.

Wherefore, the decision and resolution appealed from are affirmed, without pronouncement as to costs.

Bengzon, Acting C.J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Paredes, and Dizon, JJ., concur.

[1] Section 50 (c), Republic Act 1199; Paz, et al. vs. Santos, et al., L-12047, September 30, 1959.

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