

PEDRITO SALMORIN, PETITIONER, VS. DR. PEDRO ZALDIVAR, RESPONDENT.

G.R. No. 169691. July 23, 2008

Ponente: CORONA, J.

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CORONA, J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Pedrito Salmorin assails the January 31, 2005 decision[1] and September 8, 2005 resolution[2] of the Court of Appeals (CA).

On July 15, 1989, respondent Dr. Pedro Zaldivar, as legal possessor[3] of Lot No. 7481-H[4] situated in Mapatag, Hamtic, Antique, entered into an agreement (Kasugtanan)[5] with Salmorin designating him as administrator of the lot with a monthly salary of P150. Salmorin allegedly did not comply with the terms of the Kasugtanan when he failed to till the vacant areas.[6] This compelled Zaldivar to terminate his services and eject him from the lot. When Salmorin refused to vacate the property, Zaldivar filed a complaint for unlawful detainer against him in the Municipal Circuit Trial Court (MCTC) of Tobias Fornier-Anini-y-Hamtic. The complaint was docketed as Civil Case No. 229-H.

In his answer, Salmorin alleged the existence of a tenancy relationship between him and Zaldivar. Thus, he claimed that the case was an agrarian matter over which the MCTC had no jurisdiction.

After an examination of the position papers submitted by the parties, the MCTC found that the case was in the nature of an agrarian dispute and dismissed the case for lack of jurisdiction.

Zaldivar appealed to the Regional Trial Court (RTC) of San Jose, Antique which ruled in his favor. The RTC found that the consent of the landowner and sharing of the harvest, which were requisites for the existence of a tenancy relationship,[7] did not exist. Thus, it ruled that the MCTC had jurisdiction over the case and ordered the reinstatement of Civil Case No. 229-H.

Salmorin appealed the RTC decision to the CA but the latter upheld the decision of the RTC. He now seeks a reversal of the RTC and CA decisions.

Salmorin argues that the regular court had no jurisdiction over the case and Zaldivar had no right to possess the subject property.

We disagree.

On one hand, the Department of Agrarian Reform Adjudication Board has primary and exclusive jurisdiction over agrarian related cases, i.e., rights and obligations of persons, whether natural or juridical, engaged in the management, cultivation and use of all agricultural lands covered by the Comprehensive Agrarian Reform Law and other related agrarian laws, or those cases involving the ejectment and dispossession of tenants and/or leaseholders.[8] On the other, Section 33 (2) of Batas Pambansa Blg. 129, as amended by Republic Act 7691, provides that exclusive original jurisdiction over cases of forcible entry and unlawful detainer is lodged with the

metropolitan trial courts, municipal trial courts and MCTCs.

It is well-settled that the jurisdiction of a court over the subject matter of the action is determined by the material allegations of the complaint and the law, irrespective of whether the plaintiff is entitled to recover all or some of the claims or reliefs sought therein.[9]

In his complaint, Zaldivar alleged the following:

(1)

he possessed the subject lot;

(2)

he instituted Salmorin as administrator thereof;

(3)

Salmorin failed to administer the subject lot by not having the vacant areas thereof planted;

(4)

for Salmorin's failure to administer the subject lot, Salmorin's service as administrator was terminated;

(5)

he advised Salmorin through registered mail to leave or vacate the subject lot and

(6)

Salmorin refused to vacate the subject lot without justification.

Thus, Zaldivar's complaint concerned the unlawful detainer by Salmorin of the subject lot. This matter is properly within the jurisdiction of the regular courts. The allegation of tenancy in Salmorin's answer did not automatically deprive the MCTC of its jurisdiction. In *Hilado et al. v. Chavez et al.*, [10] we ruled:

[T]hat the jurisdiction of the court over the nature of the action and the subject matter thereof cannot be made to depend upon the defenses set up in the court or upon a motion to dismiss. Otherwise, the question of jurisdiction would depend almost entirely on the defendant. xxx The [MTCC] does not lose its jurisdiction over an ejectment case by the simple expedient of a party raising as defense therein the alleged existence of a tenancy relationship between the parties. But it is the duty of the court to receive evidence to determine the allegations of tenancy. If after hearing, tenancy had in fact been shown to be the real issue, the court should dismiss the case for lack of jurisdiction. (emphasis supplied; citations omitted)

Contrary to the findings of the MCTC, both the RTC and the CA found that there was no tenancy relationship between Salmorin and Zaldivar. A tenancy relationship cannot be presumed.[11] In *Saul v. Suarez*, [12] we held:

There must be evidence to prove the tenancy relations such that all its indispensable elements must be established, to wit: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) there is consent by the landowner; (4) the purpose is agricultural production; (5) there is personal cultivation; and (6) there is sharing of the harvests. All these requisites are necessary to create tenancy relationship, and the absence of one or more requisites will not make the alleged tenant a de facto tenant.

All these elements must concur. It is not enough that they are alleged. To divest the MCTC of jurisdiction, these elements must all be shown to be present.[13]

Tenancy is a legal relationship established by the existence of particular facts as required by law. In this case, the

RTC and CA correctly found that the third and sixth elements, namely, consent of the landowner and sharing of the harvests, respectively, were absent. We find no compelling reason to disturb the factual findings of the RTC and the CA.

The fact alone of working on another's landholding does not raise a presumption of the existence of agricultural tenancy.[14] There must be substantial evidence on record adequate to prove the element of sharing. Moreover, in *Rivera v. Santiago*,[15] we stressed:

[T]hat it is not unusual for a landowner to receive the produce of the land from a caretaker who sows thereon. The fact of receipt, without an agreed system of sharing, does not ipso facto create a tenancy.

Salmorin's attempt to persuade us by way of a certification coming from the Barangay Agrarian Reform Committee attesting that he was a bona fide tenant of Zaldivar deserves scant consideration. Certifications issued by municipal agrarian reform officers are not binding on the courts. This rule was articulated in *Bautista v. Mag-isa vda. de Villena*: [16]

In a given locality, merely preliminary or provisional are the certifications or findings of the secretary of agrarian reform (or of an authorized representative) concerning the presence or the absence of a tenancy relationship between the contending parties; hence, such certifications do not bind the judiciary.

We note that agricultural share tenancy was declared contrary to public policy and, thus, abolished by the passage of RA 3844, as amended. Share tenancy exists:

[W]henver two persons agree on a joint undertaking for agricultural production wherein one party furnishes the land and the other his labor, with either or both contributing any one or several of the items of production, the tenant cultivating the land personally with the aid of labor available from members of his immediate farm household, and the produce thereof to be divided between the landholder and the tenant.[17]

In alleging that he is a tenant of Zaldivar, Salmorin (in his affidavit dated April 26, 2000)[18] relates that their arrangement was for him to do all the cultivation and that the expenses therefore will be deducted from the harvest. The rest of the harvest will be divided equally between himself and Zaldivar. If Salmorin's version was to be believed, their arrangement was clearly one of agricultural share tenancy. For being contrary to law, Salmorin's assertion should not be given merit.

Since the MCTC has jurisdiction over Civil Case No. 229-H, we will refrain from discussing the right of Zaldivar to possess Lot No. 7481-H as it is more correctly the subject of the appropriate action in the trial court.

WHEREFORE, the petition is hereby DENIED. The January 31, 2005 and September 8, 2005 resolution of the Court of Appeals are AFFIRMED. Civil Case No. 229-H is hereby REINSTATED. The case is REMANDED to the Municipal Circuit Trial Court of Tobias Fornier-Anini-y-Hamtic which is directed to proceed with and finish the case as expeditiously as possible.

Costs against petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Azcuna, and Leonardo-De Castro, JJ., concur.

[1]Penned by Associate Justice Sesinando E. Villon and concurred by Associate Justices Isaias P. Dicedican and Ramon M. Bato, Jr. of the Twentieth Division of the Court of Appeals. Rollo, pp. 140-147.

[2]Id., pp. 138-139.

[3] He possessed the lot in question in representation of his wife, Viola Sumagpao, who was an heir of the owner Lourdes Sumagpao.

[4] With an area of 15.4360 hectares.

[5] Rollo, p. 63.

[6] Id., p. 141.

[7] In the case of *Hidalgo v. Rosales*, 144 Phil. 312 (1970), we held that Section 4 of RA 3844, as amended, expressly outlawed agricultural share tenancy for being contrary to public policy and decreed its abolition. In anticipation of the expiration of share tenancy contracts - whether by contractual stipulation or the tenant's exercise of his option to elect the leasehold system instead or by virtue of their nullity - occurring before the proclamation of the locality as a land reform area, the tenant shall continue in possession of the land for cultivation and "there shall be presumed to exist a leasehold relationship under the provisions of this Code."

In 1971, RA 6389 (An Act Amending RA 3844, as amended) was passed. Section 4 thereof expressly provided for the automatic conversion of existing share tenancies to agricultural leaseholds upon its (RA 6389's) effectivity on September 10, 1971.

[8] 2003 Rules of Procedure of the Department of Agrarian Reform Adjudication Board, Rule II, Section 1.

[9] *Heirs of Magpily v. De Jesus*, G.R. No. 167748, 8 November 2005, 474 SCRA 366, 372 citing *Sumawang v. De Guzman*, G.R. No. 150106, 8 September 2004, 437 SCRA 622, 627.

[10] G.R. No. 134742, 22 September 2004, 438 SCRA 623, 641.

[11] *Supra* note 9 at 373.

[12] G.R. No. 166664, 20 October 2005, 473 SCRA 628, 634.

[13] *Rivera v. Santiago*, G.R. No. 146501, 28 August 2003, 410 SCRA 113, 123.

[14] *Heirs of Magpily v. De Jesus*, *supra* note 9 citing *VHJ Construction and Development Corporation v. CA*, G.R. No. 128534, August 13, 2004, 436 SCRA 392, 399.

[15] *Supra* note 13 at 125.

[16] G.R. No. 152564, 13 September 2004, 438 SCRA 259, 271.

[17] Republic Act No. 3844 (1963), Sec. 166 (25).

[18] Rollo, pp. 91-92.

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