

LEONARDO TARONA, EUGENIA TARONA, NITA TARONA, LUIS TARONA, ROSALINDA TARONA, APOLONIA TARONA, CARLOS TARONA, LOURDES TARONA AND ROGELIO TARONA, PETITIONERS, VS. COURT OF APPEALS...*G.R. No. 170182. June 18, 2009*

Ponente: LEONARDO-DE CASTRO, J.

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Assailed in this petition for review on certiorari under Rule 45 of the Rules of Court is the Decision dated April 27, 2005[1] of the Court of Appeals (CA) in CA-G.R. SP No. 86164, reversing and setting aside the January 16, 2004 Decision and August 06, 2004 Resolution of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB Case No. 9496. The aforementioned DARAB Decision and Resolution affirmed the October 28, 1999 Decision of the Provincial Adjudicator of Dinalupihan, Bataan, in Case No. R-0301-0115-98, which in turn dismissed private respondents' action for recovery of possession of the landholding in question and ordering the latter to respect the status of the petitioners as bona-fide tenants thereof. Likewise questioned is the Resolution dated October 19, 2005[2] of the CA which denied petitioners' motion for reconsideration.

The parcel of land subject of this case is located in Mauban, now Nagbalayong, Morong, Bataan, with an area of 10.4758 hectares, more or less, covered by Transfer Certificate of Title No. 6986[3] and registered in the name of Antonia T. Leño married to Federico Leño.

As disclosed by the record, the instant case stemmed from a complaint[4] for recovery of possession of the subject landholding filed on May 22, 1998, with the Provincial Agrarian Reform Adjudication Board in Dinalupihan, Bataan, by herein private respondents Gay T. Leño, Lemuel T. Leño, Noel T. Leño, Jedd Leño Cuison and Jason Leño Cuison, against petitioners Leonardo, Eugenia, Nita, Luis and Rosalinda, all surnamed Tarona. Later, the other petitioners, namely Apolonia, Carlos, Lourdes and Rogelio, likewise all surnamed Tarona, were allowed to join the action as intervenors.

Essentially, private respondents alleged that they are co-owners of the land subject of the case which they inherited from their late mother, Antonia T. Leño, in whose name said property is titled. Private respondents claimed that the petitioners, then defendants and intervenors, are not lawful and bona fide tenants of the subject landholding because they have no legal or valid document evidencing tenancy or any proof of rental payments. The purported lease agreement executed by their father in favor of one Juanito Tarona was void for their father had no authority to deal with their mother's paraphernal property. They likewise alleged that during the lifetime of their mother, the land was administered by Cesario and Meliton Fronda, both of whom are now dead. It was after Antonia's death that then defendants Leonardo, Eugenia, Nita, Luis and Rosalinda Tarona entered the land and took possession of the same. Since barangay conciliation and mediation proceedings conducted by the Municipal Agrarian Reform Office of Morong failed, and subsequent demands for petitioners to vacate the land likewise proved futile, private respondents were thus constrained to file the complaint.

Answering the complaint, the original defendants, Leonardo, Eugenia, Nita, Luis and Rosalinda, and the intervenors, Apolonia, Carlos, Lourdes and Rogelio, denied the material allegations therein and averred that as nephews and nieces and the lawful heirs of the original agricultural lessee, Juanito Taron, they have succeeded to the latter's tenancy rights and are, therefore, bona fide leasehold tenants. In support of the alleged existence of a tenancy relationship, defendants and intervenors presented in evidence a Leasehold Agreement dated July 12, 1956[5] between Juanito Taron and Federico Leaño, the deceased husband of Antonia and the father of the private respondents. Leonardo, Eugenia, Nita, Luis and Rosalinda asserted that it was not the Frondas but their predecessor, Juanito, who actually cultivated the subject land and that they continued such cultivation after the latter's death. As for the allegation of private respondents that they are not paying lease rentals, then intervenors Apolonia, Carlos, Lourdes and Rogelio, all surnamed Taron, pointed out that if such allegation was true then they should have been ejected from the landholding a long time ago for having violated the leasehold agreement. Insisting that the subject land was part of the late spouses Federico and Antonia Leaño's conjugal property and not that of Antonia's alone, the defendants and the intervenors asserted that the uninterrupted and physical possession by them of said land for many years has estopped the private respondents from questioning the validity of the leasehold agreement. The defendants and intervenors lastly asserted that the subject landholding is within the coverage of the Comprehensive Agrarian Reform Program (CARP) and should be distributed to them.

In a Decision dated October 28, 1999,[6] the Bataan Provincial Agrarian Reform Adjudicator (PARAD), finding that a tenancy relationship existed between the parties and that he had no authority to rule on the coverage of the CARP over the landholding, dismissed private respondents' complaint and rendered judgment in this wise:

Wherefore, in the light of the foregoing, judgment is hereby rendered as follows:

- 1). Ordering the plaintiffs to respect the tenurial status of the defendants and intervenors as the bona-fide tenants over the landholding in question containing an area of 10,000 hectares, more or less, covering Transfer Certificate of title No. T-6986;
- 2). Ordering the plaintiffs, their heirs, assigns, successors-in-interest and all persons acting for and in their behalves or claiming rights under them to cease and desist from further harassing, disturbing, molesting or doing acts which tend to eject, oust, remove defendants and intervenors from their peaceful possession and occupation of the subject landholding;
- 3). Ordering the Municipal Agrarian Reform Officer to fix the lease rentals of the subject landholding on the basis of its harvest or produce.

Dismissing the instant complaint for lack of merit.

All other claims and counterclaims are hereby ordered dismissed.

SO DECIDED.

NO PRONOUNCEMENT AS TO COSTS.

SO ORDERED.[7]

On appeal, the DARAB affirmed the findings of the PARAD as it explained in its Decision of January 16, 2004:[8]

Records reveal that the property involved in the dispute was the subject of a Leasehold Agreement dated July 12, 1956, executed between Antonio T. Leano in the name of Federico C. Leano in favor of Juanito Taron. It is to be noted that before the filing of the instant case, there was a previous case filed in the Regional Trial Court, Branch I of Balanga, Bataan, between the same parties over the same landholding docketed as Civil Case No. 6649 which was dismissed by the trial court on the ground that there exists a tenancy relationship

with the [appellants] by virtue of the agreement executed by their respective predecessors-in-interest. Thereafter, [appellants] filed a complaint before the Honorable Adjudicator a quo against the same [appellees] for recovery of possession of the landholding in question. It is noteworthy to stress at this instant that the subject property was acquired by [appellants] through succession in 1995 as evidenced by the extrajudicial partition among them.

In fine, the Hon. Adjudicator a quo, after evaluation and weighing of the parties' contentions, has found that [appellees-intervenors] are bonafide tenants of the subject landholding. The validity of the Leasehold Agreement having been established, the [appellees-intervenors] merely succeeded to the rights and privileges of their predecessor-in-interest, Juanito Taronas, who was the tenant of the subject landholding. The requisites of tenancy relationship are present in the case at bar. x x x The consideration consists in the sharing of the harvest. The fact that [appellants] did not question the tenancy of [appellees-intervenors] over the landholding for several years, amounted to an implied admission or consent to the establishment of a tenancy relationship between the parties.[9] (Words in brackets ours.)

The private respondents moved for reconsideration of the foregoing decision. In its Resolution of August 6, 2004,[10] however, the DARAB denied their motion, prompting the private respondents to file a petition for review with motion for the issuance of a prohibitory injunction[11] with the Court of Appeals (CA).

In its herein assailed Decision of April 27, 2005,[12] the CA reversed and set aside the DARAB decision and resolution.

In its judgment of reversal, the CA first ruled on the extent of the coverage of the CARP over the subject landholding, holding that only 1.2854 hectares out of the total area of 10.4758 hectares is carvable as per the order of the Department of Agrarian Reform (DAR) Regional Director in A.R. Case No. LSD 0157'03 "RE: Protest from CARP Coverage xxx," which was an action filed by the private respondents herein with the DAR involving the subject property. Anent the issue of the existence of tenancy relations, the CA noted that while the DARAB upheld the existence thereof between the private respondents Leaños and Apolonia, Carlos, Lourdes and Rogelio Taronas,[13] nowhere in said Board's decision is a similar conclusion with regard to Leonardo, Eugenia, Nita, Luis and Rosalinda Taronas.[14] Be that as it may, so the CA held, considering that the latter group of Taronas are the nephews and nieces and members of the immediate farm household of the original agricultural tenant, Juanito Taronas, they cannot succeed as tenants-in-law because under Section 9 of Republic Act (R.A.) No. 3844, or the Agricultural Land Reform Code, succession of tenancy rights is limited only to direct descendants. As for Apolonia, Carlos, Lourdes and Rogelio, the CA found that they cannot be considered as tenants of the subject land because they are not residents of the place where the same lies, as evidenced by the certification of the barangay captain of Nagbalayong, Morong, Bataan and the certification of the election officer of Caloocan City that Apolonia, Carlos and Rogelio were residents and/or registered voters of Caloocan City.

In time, all the Taronas (both the originally impleaded defendants and the intervenors) filed a motion for reconsideration of the aforementioned decision. However, in its herein equally assailed Resolution dated October 19, 2005, [15] the CA denied said motion.

Hence, the Taronas, now the petitioners, are before us contending that the CA erred and gravely abused its discretion in (1) declaring that the transfer of residence by Apolonia, Carlos, Lourdes and Rogelio Taronas from Morong, Bataan, to Caloocan City, negated their claim of personal cultivation of the landholding in dispute which is located in Morong, Bataan; (2) not appreciating the fact that a tenancy relationship between the private respondents and Leonardo, Eugenia, Nita, Luis, and Rosalinda Taronas was impliedly created by virtue of the latter's continuous and uninterrupted possession and cultivation of the land since 1957 without any disturbance from the private respondents and Antonia Leaño; and (3) prematurely declaring that only 1.2854 hectares of the

landholding is capable despite pendency of the appeal on the issue of capability of said land with the DAR.

The petition is devoid of merit.

As we see it, the first and second issues being raised herein hinge on the existence of tenancy relations between the parties. This is a question of fact which generally is beyond this Court's scope of review under Rule 45 of the Rules of Court. However, we are compelled to review the facts of this case, since the findings of the CA are contrary to those of the DARAB.[16]

The PARAD essentially held that the status of petitioners as tenants was derived from their status as heirs of the deceased Juanito Taroná who was named the tenant in an agricultural lease agreement involving the subject property. As noted by the CA, even as the DARAB affirmed the PARAD decision on appeal, only intervenors Apolonia, Carlos, Lourdes and Rogelio were expressly held by the DARAB to be the heirs of Juanito Taroná. This is not surprising since petitioners Leonardo, Eugenia, Nita, Luis, and Rosalinda Taroná admitted repeatedly in their pleadings that they are the nephews and nieces of Juanito Taroná. As correctly held by the CA, succession of tenancy rights is limited to direct descendants only. Section 9 of R.A. No. 3844 clearly provides:

Section 9. Agricultural Leasehold Relation Not Extinguished by Death or Incapacity of the Parties - In case of death or permanent incapacity of the agricultural lessee to work his landholding, the leasehold shall continue between the agricultural lessor and the person who can cultivate the landholding personally, chosen by the agricultural lessor within one month from such death or permanent incapacity, from among the following: (a) the surviving spouse; (b) the eldest direct descendant by consanguinity; or (c) the next eldest descendant or descendants in the order of their age; Provided, That in case the death or permanent incapacity of the agricultural lessee occurs during the agricultural year, such choice shall be exercised at the end of that agricultural year: Provided, further, That in the event the agricultural lessor fails to exercise his choice within the periods herein provided, the priority shall be in accordance with the order herein established.

In case of death or permanent incapacity of the agricultural lessor, the leasehold shall bind his legal heirs. (Emphasis ours)

As for petitioners Apolonia, Carlos, Lourdes and Rogelio (intervenors in the proceedings a quo), allegedly the wife and children of Juanito Taroná, the Court cannot give credence to their claim of bona fide tenancy over any part of the subject property. To begin with, a careful perusal of the records of the case showed that not a shred of evidence was ever presented to buttress petitioners' assertion of relationship to Juanito Taroná.

Even assuming their relationship to Juanito Taroná was duly proved, we agree with the CA that not all the elements for the creation of a tenancy relationship between these petitioners (intervenors) and private respondents have been established in this case.

In order to establish a tenancy relationship, the following essential requisites must concur: (1) the parties are the landowner and the tenant or agricultural lessee; (2) the subject matter of the relationship is an agricultural land; (3) there is consent between the parties to the relationship; (4) the purpose of the relationship is to bring about agricultural production; (5) there is personal cultivation on the part of the tenant or agricultural lessee; and (6) the harvest is shared between the landowner and the tenant or agricultural lessee.[17] All these requisites are necessary to create a tenancy relationship and the absence of one or more will not make the alleged tenant a de facto tenant.[18]

In the case at bar, the CA held that there is no tenancy relationship between the private respondents and petitioners Apolonia, Carlos, Lourdes and Rogelio Taroná due to the absence of personal cultivation of the subject landholding by the latter.

In arriving at such a finding, the appellate court gave full credence to the evidence proffered by private respondents showing that the aforementioned petitioners are not residents of the locality where the subject landholding is and neither are they tenants of any lot thereat. The evidence, among others, consists of the Certification dated October 9, 2003[19] issued by the Barangay Captain of Mauban, now Nagbalayong, Morong, Bataan, stating that Apolonia, Carlos, Lourdes and Rogelio Taronas are not residents therein and that they do not personally cultivate the subject property; and the Certification[20] of the election officer of Caloocan City showing that said persons are residents and registered voters of Caloocan City.

We find no reason to disturb the aforesaid finding of the CA. Clearly, private respondents' evidence, which significantly the petitioners failed to refute, more than substantially proved the impossibility of personal cultivation. Petitioners (intervenor) have already left the place where the subject land lies in Morong, Bataan, and now live in another locality which is in Caloocan City. Since Bataan is of a considerable distance from Caloocan City, it would undeniably be physically impossible for the petitioners to personally cultivate the landholding. In *Deloso v. Marapao*,[21] we upheld the ruling of the CA that while a tenant is not required to be physically present in the land at all hours of the day and night, such doctrine cannot be stretched to apply to a case wherein the supposed tenant has chosen to reside in another place so far from the land to be cultivated that it would be physically impossible to be present therein with some degree of constancy as to allow the tenant to cultivate the same.

Intervenor likewise argue in their petition that their transfer of residence to Caloocan City is immaterial since the tenant is allowed by law to cultivate the land through the aid of labor from members of their immediate farm household. However, there was no allegation made nor evidence presented in the proceedings below that there were such persons who were cultivating the land on intervenor's behalf.

Even further weakening their position, intervenor was not able to substantiate, by the necessary quantum of evidence, the existence of a tenancy relationship by virtue of their alleged continuous and uninterrupted possession and cultivation of the subject land since 1957 up to the present. Aside from the leasehold agreement executed between the private respondents' and petitioners' predecessors-in-interest and their bare allegations of continuous possession, no other evidence was adduced in support of such claim.

In the same vein, the record is bereft of evidence proving that the other petitioners, namely Leonardo, Eugenia, Nita, Luis and Rosalinda Taronas, have been continuously in possession and uninterrupted cultivation of the landholding as nephews and nieces and members of Juanito Taronas' immediate farm household since 1957. While personal cultivation, as defined by law, is cultivation by the lessee or lessor in person and/or with the aid of labor from within his immediate household, i.e., members of the family of the lessee or lessor and other persons who are dependent upon him for support and who usually help him in his activities,[22] there is nothing in this case to show that petitioners Leonardo, Eugenia, Nita, Luis and Rosalinda were indeed members of Juanito's immediate farm household who helped him in cultivating the land during his lifetime.

Even assuming purely for the sake of argument that at some point in time these petitioners had been cultivating the land, there was no proof that the supposed occupation and cultivation of the land by these petitioners were with the knowledge or consent of private respondents or their predecessor-in-interest or that petitioners paid and private respondents received rentals. In view of this evidentiary dearth, we cannot uphold petitioners' argument that an agricultural tenancy relationship was "impliedly" created between Leonardo, Eugenia, Nita, Luis and Rosalinda, and the private respondents. Thus, the CA properly reversed the PARAD and DARAB ruling on this point.

In the absence of the requisite of personal cultivation as it is defined by law, we cannot but rule that all the

petitioners herein are not tenants of the private respondents. It has been held that personal cultivation is an important factor in determining the existence of an agricultural lease relationship such that in its absence, an occupant of a tract of land, or a cultivator thereof, or planter thereon, cannot qualify as a de jure lessee.[23] In sum, the CA did not err when it found that no tenancy relations existed between the private respondents and the petitioners.

We part ways with the CA, however, with regard to its declaration that only 1.2854 hectares of the landholding is subject to the CARP. The power to determine whether a property is subject to CARP coverage lies with the DAR Secretary[24] pursuant to Section 50 of R.A. No. 6657.[25] Verily, it is explicitly provided under Section 1, Rule II of the DARAB Revised Rules[26] that matters involving strictly the administrative implementation of the CARP and other agrarian laws and regulations, shall be the exclusive prerogative of and cognizable by the Secretary of the DAR. Moreover, under the Rules of Procedure for Agrarian Law Implementation (ALI) Cases,[27] set forth in Administrative Order No. 06-00,[28] it is provided that the DAR Secretary has exclusive jurisdiction over classification and identification of landholdings for coverage under the CARP, including protests or oppositions thereto and petitions for lifting of coverage. This being so, the CA's declaration regarding CARP coverage of the subject land was premature considering that the Order of the DAR Regional Director in A.R. Case No. LSD 015703, entitled In Re Protest From CARP Coverage x x x[29] upon which the CA based its questioned declaration, was still pending review with the Office of the DAR Assistant Secretary, as per Certification[30] dated February 18, 2005 by the Legal Affairs Office of the DAR. In any event, the resolution of the issue of whether the entire property or only part of it is subject to CARP coverage has no bearing on the issue in this case, i.e. whether petitioners can be considered bona fide tenants of herein private respondents.

WHEREFORE, the instant petition is DENIED and the assailed Decision dated April 27, 2005 and Resolution dated October 19, 2005 of the CA are AFFIRMED insofar as it declared the petitioners not tenants of the subject landholding, and REVERSED with respect to the finding of the extent of the coverage of the Comprehensive Agrarian Reform Program over the land subject of the case.

No pronouncement as to costs.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Bersamin, JJ., concur.

[1] Penned by Associate Justice Vicente S.E. Veloso with Associate Justices Amelita G. Tolentino and the late Roberto A. Barrios, concurring; rollo, pp. 38-50.

[2] Id. at 36.

[3] CA Record, p. 25; the precise area stated on TCT No. 6986 is 104,758 sq. m.

[4] DARAB Record, pp. 18-20.

[5] Rollo, pp. 53-54.

[6] Id. at 55-66.

[7] Id. at 65-66.

[8] Id. at 67-73.

[9] Id. at 71-72.

[10] Id. at 74-75.

[11] Docketed as CA-G.R. SP No. 86164; CA Records, pp. 2-18.

[12] Supra note 1.

[13] Intervenor-Appellees in CA-G.R. SP No. 86164 and Intervenor in DARAB Case No. 9496.

[14] Defendants-Appellees in CA-G.R. SP No. 86164 and Defendants in DARAB Case No. 9496.

[15] Supra note 2.

[16] See *Deloso v. Marapao*, G.R. No. 144244, November 11, 2005, 474 SCRA 585, 592-593.

[17] Id. at 593.

[18] *Suarez v. Saul, et al.*, G.R. No. 166664, October 20, 2005, 473 SCRA 628, 634.

[19] CA Record, p. 331.

[20] Id. at 464-466.

[21] Supra note 16, pp. 593-594.

[22] *Verde v. Macapagal*, G.R. No. 151342, June 23, 2005, 461 SCRA 97, 106-107.

[23] Id. at 106.

[24] *Sta. Rosa Development Corporation v. Juan B. Amante, et al.*, G.R. No. 112526, March 16, 2005, 453 SCRA 434, 471.

[25] Section 50 of R.A. No. 6657 (CARL) provides that:

Sec. 50. Quasi-Judicial Powers of the DAR. -- The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).

[26] Rule II, Section 1 provides that:

SECTION 1. Primary, Original and Appellate Jurisdiction. -- The Agrarian Reform Adjudication Board shall have primary jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes, cases, controversies, and matters or incidents involving the implementation of the Comprehensive Agrarian Reform Program under Republic Act No. 6657, Executive Order Nos. 229, 228 and 129-A, Republic Act No. 3844 as amended by Republic Act No. 6389, Presidential Decree No. 27 and other agrarian laws and their implementing rules and regulations.

Specifically, such jurisdiction shall extend over but not be limited to the following:

x x x

Provided, however, that matters involving strictly the administrative implementation of the CARP and other agrarian laws and regulations, shall be the exclusive prerogative of and cognizable by the Secretary of the DAR.

[27] Section 2 of which pertinently provides the following:

SECTION 2. Cases Covered. -- These Rules shall govern cases falling within the exclusive jurisdiction of the

DAR Secretary which shall include the following:

(a) Classification and identification of landholdings for coverage under the Comprehensive Agrarian Reform Program (CARP), including protests or oppositions thereto and petitions for lifting of coverage;

x x x

[28] Issued on August 30, 2000.

[29] In full, the title of this case reads "Re: Protest from CARP Coverage of Gay T. Leaña, Lemuel T. Leaña, Noel T. Leaña, Jedd Anthony T. Leaña Cuison and Jason Anthony Leaña Cuison, Involving a Landholding Covered by TCT No. T-6986 With An Area of 10.4758 Hectares, More or Less, Located at Mauban Now Nagbalayong, Morong, Bataan;" rollo, pp. 76-79.

[30] Id. at 80.

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