

FERDINAND A. DELA CRUZ AND RENATO A. DELA CRUZ, PETITIONERS, VS. AMELIA G. QUIAZON, RESPONDENT.

G.R. No. 171961. November 28, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Petitioners, Ferdinand and Renato dela Cruz, seek the review of the Court of Appeals Decision[1] dated January 19, 2006 and Resolution dated March 21, 2006. The assailed decision affirmed the Department of Agrarian Reform Adjudication Board (DARAB) Resolution canceling the Certificate of Land Transfer (CLT) in the name of petitioners' father, Feliciano dela Cruz, and directing petitioners to vacate the property.

The case arose from the following antecedents:

Estela Dizon-Garcia, mother of respondent Amelia G. Quiazon, was the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. 107576, situated in Sto. Domingo II, Capas, Tarlac. The property was brought under the coverage of Operation Land Transfer pursuant to Presidential Decree (P.D.) No. 27.[2] On June 8, 1981, Feliciano dela Cruz, a tenant-farmer, was issued CLT No. 0-036207[3] over a 3.7200-hectare portion of the said property.

On March 9, 1992, the heirs of Estela Dizon-Garcia executed a Deed of Extrajudicial Admission and Partition with Waiver adjudicating among themselves all the properties left by both of their parents, except for the subject property, which was adjudicated solely in favor of respondent.

On May 15, 1993, respondent filed a Complaint with the Provincial Adjudication Board of the Department of Agrarian Reform (DAR) against petitioner Ferdinand dela Cruz, alleging that in 1991, he entered into a leasehold contract with respondent, by virtue of which he bound himself to deliver 28 cavans of palay as rental. Since 1991, petitioner Ferdinand dela Cruz allegedly failed to deliver the stipulated rental because he had already abandoned the landholding. For this reason, respondent prayed for his ejectment from the property and the termination of their tenancy relationship.[4]

In his Answer, petitioner Ferdinand dela Cruz, through petitioner Renato dela Cruz, alleged that the execution of the leasehold contract was erroneous considering that a CLT had already been issued in favor of his father. He contended that by virtue of the CLT, they became the owners of the landholding, without any obligation to pay rentals to respondent but only to pay amortizations to the Land Bank of the Philippines. He claimed that they paid the rentals until 1992, which rentals should now be considered as advance payments for the land.[5]

Later, respondent amended the complaint to implead Feliciano and Renato dela Cruz.[6] The amended complaint alleged that petitioners Ferdinand and Feliciano dela Cruz were already immigrants to the United States of America (U.S.A.) and that petitioner Renato dela Cruz, the actual tiller of the land, was a usurper because his possession of the land was without the consent of the landowner. Respondent argued that by migrating to the U.S.A., Feliciano was deemed to have abandoned the landholding, for which reason his CLT should now be

canceled.

In turn, petitioners amended their Answer. They averred that their father was just temporarily out of the country and that petitioner Renato's possession and cultivation of the land did not need the consent of the landowner because it was done in aid of their father's cultivation of the land.[7]

On November 8, 1993, petitioners began paying amortizations to the Land Bank of the Philippines.[8]

On December 21, 1993, Provincial Adjudicator Romeo B. Bello dismissed the complaint based on his finding that the landholding had not been abandoned by Feliciano considering that petitioner Renato dela Cruz, a member of Feliciano's immediate family, was in actual and physical possession thereof.[9]

Respondent filed a Motion for Reconsideration. In an Order[10] dated June 8, 1994, the Provincial Adjudicator denied respondent's motion for reconsideration for lack of merit and directed the Municipal Agrarian Reform Office of Capas, Tarlac, to determine whether the amortizations had been fully paid and, if so, to issue an Emancipation Patent.

On July 11, 1994, respondent filed a Notice of Appeal from said decision.[11] During the pendency of the appeal, respondent executed, on October 6, 1994, a Deed of Conveyance and Waiver of her rights over the subject property in favor of her siblings.[12] She then filed her Appeal Memorandum on November 29, 1994.[13] The appeal was docketed as DARAB Case No. 3335.

Unknown to petitioners, respondent and her siblings, as heirs of Estela Dizon-Garcia, had filed an Application for Retention before the DAR Regional Office for Region III, as early as June 1, 1994.[14] The application was granted on February 8, 1996. The dispositive portion of the Regional Director's Order reads:

WHEREFORE, all premises considered, Order is hereby issued, as follows:

- GRANTING the application for retention of the Heirs of Estela Dizon-Garcia over a landholding covered by TCT No. 107576, with a total area of 12.5431, located at Sto. Domingo, Capas, Tarlac, to be divided among the heirs as follows:

Rosita Garcia - 3.9641 has.

Buena Garcia - 2.5796 has.

Bella Garcia - 3.0000 has.

Estellita Garcia - 3.0000 has.

- ORDERING the herein landowners-applicant to maintain in peaceful possession the tenants of the subject landholding, namely: Renato dela Cruz, Carlos Aquino and Francisco Manayang as leaseholders; and

- DIRECTING the herein landowners-applicant to cause the segregation of the retained area at their own expense and to submit report to this Office within thirty (30) days from receipt hereof.

SO ORDERED.[15]

In a letter[16] dated April 15, 1996, the heirs of Feliciano dela Cruz prayed for the setting aside of the said order. DAR Secretary Ernesto D. Garilao treated the letter as an appeal but, nevertheless, denied the same in an Order[17] dated May 13, 1997.

On July 7, 1999, the DARAB finally dismissed respondent's appeal (DARAB Case No. 3335) from the decision of the Provincial Adjudicator.[18] This decision became final and executory.[19]

On October 19, 1999, respondent filed a Petition for Relief from Judgment,[20] claiming that she just arrived from the U.S.A. on September 10, 1999 and it was only then that she found out about the July 7, 1999 DARAB

Decision. She purportedly tried to contact her counsel only to discover that he died on December 21, 1994. Respondent insisted that petitioners had already abandoned the landholding and failed to pay the lease and amortization payments therefor, thus, the cancellation of their CLT was justified. She argued that the CLT was rendered moot by the DAR's grant of their application for retention of their property which included the subject landholding.

In its Resolution dated February 7, 2001, the DARAB granted the petition for relief from judgment. The DARAB set aside its July 7, 1999 Decision primarily based on the DAR Order granting the application for retention, as well as its finding that Ferdinand and Feliciano dela Cruz abandoned the subject landholding when they went to the U.S.A. The dispositive portion of the Resolution reads:

WHEREFORE, all of the above premises considered, and in the interest of agrarian justice, the decision of this Board dated July 7, 1999 is hereby SET ASIDE, and a new one is entered:

- Declaring the dissolution of the tenancy relationship between the parties-litigants;
- Declaring the cancellation of the CLT issued in the name of defendant Feliciano dela Cruz, the land subject thereof being part of the retention area of petitioner per order dated February 8, 1996; and
- Ordering the respondents or any person acting in their behalf to vacate the subject land in favor of the petitioner.

SO ORDERED.[21]

On August 7, 2002, the DARAB denied petitioners' motion for reconsideration. On November 27, 2003, the DARAB likewise denied petitioners' Ex-Parte Manifestation with Motion and Comments and Manifestation.[22]

Petitioners thereafter filed a petition for review with the Court of Appeals (CA). Pending the resolution of the appeal, Feliciano dela Cruz passed away.

On January 19, 2006, the CA denied the petition. On March 21, 2006, the CA also denied petitioners' motion for reconsideration. Consequently, petitioners filed this petition for review on certiorari based on the following grounds:

A.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE DECISION OF THE DARAB IN DSCA NO. 0151, WHICH GAVE DUE COURSE TO THE PETITION FOR RELIEF FROM JUDGMENT.

B.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE DECISION OF THE DARAB IN DSCA NO. 0151 WHEREBY IT WAS RULED THAT PETITIONERS HAD THE OBLIGATION TO PAY LEASE RENTALS AND WERE GUILTY OF ABANDONMENT.

C.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE DECISION OF THE DARAB IN DSCA NO. 0151 WHEREBY IT WAS RULED THAT RESPONDENT HAD THE RIGHT TO RETAIN THE SUBJECT PROPERTY BY VIRTUE OF THE DECISION IN THE DAR RETENTION CASE.[23]

Petitioners argue that there was no basis for the grant of the petition for relief from judgment because it was respondent's own neglect, and not her counsel's demise, that caused the loss of her right to appeal. They claim that

as early as June 5, 1995, respondent personally knew of the death of her lawyer and she could have employed a new counsel by then. To elaborate, petitioners narrate that, in another case pending before the Regional Trial Court (RTC) of Capas, Tarlac in which respondent is plaintiff, she was ordered to replace her former counsel and a new counsel, in fact, entered his appearance therein on June 5, 1995.[24] And even assuming that respondent learned about the July 7, 1999 DARAB Decision only on September 10, 1999, she could have filed her appeal with the CA within 15 days from the said date.

Secondly, petitioners contend that respondent had no legal standing to file the petition for relief from judgment because she no longer had any interest in the subject property since respondent already waived her rights over the same in favor of her siblings.

In addition, petitioners posit that with the issuance of the CLT in favor of their father, their tenancy relationship with respondent ceased, and ownership over the subject property was effectively transferred to them. In any case, they deny that they have abandoned the landholding as it is still being cultivated by petitioner Renato dela Cruz, son of the farmer-beneficiary. Assuming that they have abandoned the property, the right of action to oust them from the property lies with the Republic of the Philippines to whom the property will revert.

Finally, petitioners assert that the DAR Decision in the retention case is null and void for lack of due process; hence, the DARAB erred in relying on the said decision. They complain that they were not impleaded as parties in the said case, nor were they given notice of its filing. Petitioners likewise point out that the retention right of the heirs, who merely succeeded to the rights of their mother, the landowner, should be limited to five hectares only.

The petition is meritorious.

At the outset, we sustain respondent's personality to file the petition for relief from judgment. A petition for relief from judgment is a remedy available to a party who, through fraud, accident, mistake or excusable negligence, was prevented from taking an appeal from a judgment or final order therein. The personality to file a petition for relief from judgment, therefore, resides in a person who is a party to the principal case. This legal standing is not lost by the mere transfer of the disputed property pendente lite. The original party does not lose his personality as a real party-in-interest merely because of the transfer of interest to another pendente lite.[25]

Nonetheless, even as we acknowledge the legal personality of respondent, we hold that the DARAB, as sustained by the CA, erred in granting the petition for relief from judgment.

A petition for relief from judgment is an equitable remedy that is allowed only in exceptional cases when there is no other available or adequate remedy. When a party has another remedy available to him, which may be either a motion for new trial or appeal from an adverse decision of the trial court, and he was not prevented by fraud, accident, mistake or excusable negligence from filing such motion or taking such appeal, he cannot avail himself of this remedy. Indeed, relief will not be granted to a party who seeks avoidance from the effects of the judgment when the loss of the remedy at law was due to his own negligence; otherwise, the petition for relief can be used to revive the right to appeal which had been lost thru inexcusable negligence.[26]

In this case, respondent's failure to avail herself of a motion for reconsideration or an appeal to the CA was due to her inexcusable negligence. Negligence to be excusable must be one which ordinary diligence and prudence could not have guarded against.[27] We note that a copy of the July 7, 1999 DARAB Decision was in fact served on the respondent herself at her residence, based on her narration that when she arrived from the U.S.A., her helper handed to her the envelope containing the DARAB Decision.[28] By her own account, she arrived on September 10, 1999. She cannot, therefore, feign ignorance of the said decision and blame the death of her counsel for such ignorance.

Moreover, we cannot disregard the fact that respondent was able to engage the services of a new counsel to represent her in another case pending before the RTC as early as June 5, 1995, in compliance with the court's directive for her to hire a substitute for her deceased counsel. Given this, respondent cannot claim lack of knowledge of the death of her former counsel, and use it as an excuse for her failure to file a motion for reconsideration or an appeal from the said DARAB Decision.

Besides, the case had been pending before the DARAB for almost five years. To recall, she filed, through counsel, her notice of appeal on July 11, 1994 and her Appeal Memorandum on November 29, 1994. Her former counsel died barely a month later (December 21, 1994). Had respondent bothered to check the status of the case, she would have discovered her counsel's demise. Parties are not expected to simply sit back and await the outcome of their case. They should be assiduous in keeping track of the status of any litigation to which they are a party. By allowing almost five years to lapse without monitoring the status of her appeal, respondent exhibited a total lack of vigilance tantamount to inexcusable negligence.

Not only did the DARAB err in granting the petition for relief from judgment, it also erred in canceling the petitioners' CLT and ordering them to vacate the property based on a finding that petitioners had abandoned the landholding.

However, contrary to petitioners' posture, the issuance of a CLT does not vest full ownership in the holder.[29] The issuance of the CLT does not sever the tenancy relationship between the landowner and the tenant-farmer. A certificate of land transfer merely evinces that the grantee thereof is qualified to avail himself of the statutory mechanism for the acquisition of ownership of the land tilled by him as provided under P.D. No. 27. It is not a muniment of title that vests in the farmer/grantee absolute ownership of his tillage. [30] It is only after compliance with the conditions which entitle a farmer/grantee to an emancipation patent that he acquires the vested right of absolute ownership in the landholding--a right which then would have become fixed and established, and no longer open to doubt or controversy.[31]

For this reason, the landowner retains an interest over the property that gives him the right to file the necessary action to evict the tenant from the landholding should there be an abandonment despite the fact that land acquired under P.D. No. 27 will not revert to the landowner.[32]

Nonetheless, we agree with petitioners that they have not abandoned the subject landholding, as in fact they have continuously cultivated the property. Abandonment requires (a) a clear and absolute intention to renounce a right or claim or to desert a right or property; and (b) an external act by which that intention is expressed or carried into effect. The intention to abandon implies a departure, with the avowed intent of never returning, resuming or claiming the right and the interest that have been abandoned.[33] The immigration of the original farmer-beneficiary to the U.S.A. did not necessarily result in the abandonment of the landholding, considering that one of his sons, petitioner Renato dela Cruz, continued cultivating the land. Personal cultivation, as required by law, includes cultivation of the land by the tenant (lessee) himself or with the aid of the immediate farm household, which refers to the members of the family of the tenant and other persons who are dependent upon him for support and who usually help him in the [agricultural] activities.[34]

Without doubt, the landowner's right of retention may be exercised over tenanted land despite the issuance of a CLT to farmer-beneficiaries.[35] However, the cancellation of a CLT over the subject landholding as a necessary consequence of the landowner's exercise of his right of retention is within the jurisdiction of the DAR Secretary, not the DARAB, as it does not involve an agrarian dispute.[36]

Under Section 1(g), Rule II of the then DARAB Rules of Procedure,[37] matters involving strictly the administrative implementation of agrarian laws shall be the exclusive prerogative of and cognizable by the

Secretary of the DAR. Although Section 1(f) of the said Rules provides that the DARAB shall have jurisdiction over cases involving the issuance of a CLT and the administrative correction thereof, it should be understood that for the DARAB to exercise jurisdiction in such cases, there must be an agrarian dispute between the landowner and the tenant.[38]

In *Tenants of the Estate of Dr. Jose Sison v. Court of Appeals*,[39] the Court sustained the authority or jurisdiction of the DAR Secretary to cancel the CLT issued to tenant-beneficiaries after the landowners' right to retain the subject landholding was upheld. The Court ruled that the issuance, recall or cancellation of certificates of land transfer falls within the Secretary's administrative jurisdiction as implementor of P.D. No. 27.

To conclude, respondent's remedy is to raise before the DAR Secretary the matter of cancellation of petitioner's CLT as an incident of the order granting the landowners' application for retention over the said landholding. In the same forum, petitioners can raise the issue of the validity of the DAR order granting the application for retention based on their claim of denial of due process, or in a separate action specifically filed to assail the validity of the judgment. A collateral attack against a judgment is generally not allowed, unless the judgment is void upon its face or its nullity is apparent by virtue of its own recitals.[40]

But as a reminder to respondent, this tack can achieve only the cancellation of petitioner's CLT. Under Sec. 6 of R.A. No. 6657, if the area retained is tenanted, the tenant shall have the option to choose whether to remain therein or be a beneficiary in the same or another agricultural land with similar or comparable features. Petitioners may not be ejected from the subject landholding even if their CLT is canceled, unless they choose to be beneficiaries of another agricultural land.

WHEREFORE, premises considered, the petition is GRANTED. The January 19, 2006 Decision and March 21, 2006 Resolution of the Court of Appeals are REVERSED and SET ASIDE. Consequently, the February 7, 2001 DARAB Decision granting the petition for relief from judgment is SET ASIDE and the July 7, 1999 DARAB Decision is REINSTATED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Penned by Associate Justice Josefina Guevara-Salonga, with Associate Justices Fernanda Lampas-Peralta and Sesinando E. Villon concurring; rollo, pp. 37-50.

[2] Decreeing the Emancipation of Tenants from the Bondage of the Soil, Transferring to Them the Ownership of the Land They Till and Providing the Instrument and Mechanism Therefor.

[3] Rollo, p. 60.

[4] CA rollo, p. 50.

[5] Id. at 53-55.

[6] Rollo, pp. 108-110.

[7] Id. at 109.

[8] Id. at 61.

[9] Id. at 156-162.

[10] Id. at 167-168.

[11] CA rollo, p. 186.

[12] Rollo, p. 180.

[13] Id. at 15.

[14] Id. at 180.

[15] Id. at 174.

[16] Id. at 175-177.

[17] Id. at 178-182.

[18] Id. at 187.

[19] Id. at 191.

[20] Id. at 195-200.

[21] Id. at 214-215.

[22] Id. at 94.

[23] Id. at 363.

[24] Id. at 234.

[25] Marcopper Mining Corporation v. Solidbank Corporation, G.R. No. 134049, June 17, 2004, 432 SCRA 360, 382.

[26] Tuason v. Court of Appeals, 326 Phil. 169, 178-179 (1996).

[27] Azucena v. Foreign Manpower Services, G. R. No. 147955, October 25, 2004, 441 SCRA 346, 355.

[28] Rollo, p. 203.

[29] Planters Development Bank v. Garcia, G.R. No. 147081, December 9, 2005, 477 SCRA 185, 199; Vinzons-Magana v. Estrella, G.R. No. 60269, September 13, 1991, 201 SCRA 536, 540.

[30] Martillano v. Court of Appeals, G.R. No. 148277, June 29, 2004, 433 SCRA 195, 203-204.

[31] Pagtalunan v. Tamayo, G.R. No. 54281, March 19, 1990, 183 SCRA 252, 259.

[32] See Estolas v. Mabalot, 431 Phil. 462, 469 (2002).

[33] Corpuz v. Grospe, 388 Phil. 1100, 1111 (2000).

[34] Verde v. Macapagal, G.R. No. 151342, June 23, 2005, 461 SCRA 97, 106-107; Romero v. Tan, 468 Phil. 224, 238 (2004); Palele v. Court of Appeals, 414 Phil. 417, 429 (2001).

[35] Daez v. Court of Appeals, 382 Phil. 742, 754 (2000).

[36] Section 3(d) of Republic Act No. 6657 defines "agrarian dispute," thus:

(d) Agrarian Dispute refers to any controversy relating to tenurial arrangements, whether leasehold, stewardship or, otherwise, over lands devoted to agriculture, including disputes concerning farmworkers associations or

representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements.

It includes any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee.

[37] Repealed and/or modified by the 2003 DARAB Rules of Procedure and DAR Administrative Order No. 06-00.

[38] See *Heirs of Julian dela Cruz and Leonora Talaro v. Heirs of Alberto Cruz*, G.R. No. 162890, November 22, 2005, 475 SCRA 743, 756.

[39] G.R. No. 93045, June 29, 1992, 210 SCRA 545.

[40] *Arcelona v. Court of Appeals*, 345 Phil. 250, 264 (1997).

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