

## **SPOUSES CONSTANTE AGBULOS AND ZENAIDA PADILLA AGBULOS, PETITIONERS, VS. NICASIO GUTIERREZ, JOSEFA GUTIERREZ AND ELENA G. GARCIA, RESPONDENTS.**

*G.R. No. 176530. June 16, 2009*

Ponente: CHICO-NAZARIO, J.

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### **CHICO-NAZARIO, J.:**

This petition for review on certiorari seeks the review of the Decision[1] of the Court of Appeals (CA) dated February 6, 2007 in CA-G.R. CV No. 83994 which set aside the dismissal of a complaint for declaration of nullity of contract, cancellation of title, reconveyance and damages.

The case stems from the following antecedents:

On October 16, 1997, respondents, Dr. Nicasio G. Gutierrez, Josefa Gutierrez de Mendoza and Elena G. Garcia, through their counsel, Atty. Adriano B. Magbitang, filed with the Regional Trial Court (RTC) of Gapan, Nueva Ecija, a complaint against petitioners, spouses Constante Agbulos and Zenaida Padilla Agbulos, for declaration of nullity of contract, cancellation of title, reconveyance and damages. The complaint alleged that respondents inherited from their father, Maximo Gutierrez, an eight-hectare parcel of land located in Callos, Penaranda, Nueva Ecija, covered by Transfer Certificate of Title (TCT) No. NT-123790 in the name of Maximo Gutierrez. Through fraud and deceit, petitioners succeeded in making it appear that Maximo Gutierrez executed a Deed of Sale on July 21, 1978 when, in truth, he died on April 25, 1977. As a result, TCT No. NT-123790 was cancelled and a new one, TCT No. NT-188664, was issued in the name of petitioners. Based on the notation at the back of the certificate of title, portions of the property were brought under the Comprehensive Agrarian Reform Program (CARP) and awarded to Lorna Padilla, Elenita Nueva and Suzette Nueva who were issued Certificates of Land Ownership Award (CLOAs).

In their defense, petitioners averred that respondents were not the real parties in interest, that the Deed of Sale was regularly executed before a notary public, that they were possessors in good faith, and that the action had prescribed.

On the day set for the presentation of the respondents' (plaintiffs') evidence, petitioners filed a Motion to Dismiss, assailing the jurisdiction of the RTC over the subject matter of the case. Petitioners contended that the Department of Agrarian Reform Adjudication Board (DARAB), not the RTC, had jurisdiction since the subject land was covered by the CARP, and CLOAs had been awarded to tenants. Respondents opposed the motion, arguing that the motion had been filed beyond the period for filing an Answer, that the RTC had jurisdiction over the case based on the allegations in the complaint, and that the DARAB had no jurisdiction since the parties had no tenancy relationship.

In an Order[2] dated October 24, 2002, the RTC granted the petitioners' motion and dismissed the complaint for lack of jurisdiction. The RTC held that the DARAB had jurisdiction, since the subject property was under the CARP, some portions of it were covered by registered CLOAs, and there was prima facie showing of tenancy. [3]

Respondents filed a motion for reconsideration. On November 13, 2003, the RTC denied the motion.[4]

Atty. Magbitang filed a Notice of Appeal[5] with the RTC, which gave due course to the same.[6] The records reveal that on December 15, 2003, respondent Elena G. Garcia wrote a letter to Judge Arturo M. Bernardo, Acting Judge of RTC Gapan, Branch 87, stating that they were surprised to receive a communication from the court informing them that their notice of appeal was ready for disposition. She also stated in the letter that there was no formal agreement with Atty. Magbitang as to whether they would pursue an appeal with the CA, because one of the plaintiffs was still in America.[7]

On February 6, 2007, the CA rendered a Decision in favor of respondents. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the appeal is hereby GRANTED and the assailed Order dated October 24, 2002 issued by the Regional Trial Court (RTC) of Gapan, Nueva Ecija, Branch 87, is REVERSED and SET ASIDE. Accordingly, the subject complaint is reinstated and the records of the case is (sic) hereby remanded to the RTC for further proceedings.

SO ORDERED.[8]

The CA concluded that the dispute between the parties was purely civil, not agrarian, in nature. According to the CA, the allegations in the complaint revealed that the principal relief sought was the nullification of the purported deed of sale and reconveyance of the subject property. It also noted that there was no tenurial, leasehold, or any other agrarian relations between the parties.

Thus, this petition, raising the following issues for the resolution of this Court:

1. Whether or not the CA erred in not dismissing the appeal despite the undisputed fact that Atty. Magbitang filed the notice of appeal without respondents' knowledge and consent;
2. Whether or not the CA erred in giving due course to the appeal despite the fact that Atty. Magbitang's appellants' brief failed to comply with the mandatory requirements of Section 13, Rule 44 of the Rules of Court regarding the contents of an appellants' brief; and
3. Whether or not the CA erred in ruling that the RTC (Regional Trial Court), not the DARAB (Department of Agrarian Reform Adjudication Board) or the PARAD/RARAD (Provincial/Regional Agrarian Provincial Agrarian Reform Adjudicator), has jurisdiction over respondents' complaint.[9]

The CA did not err in giving due course to the appeal, on both procedural and substantive grounds.

A lawyer who represents a client before the trial court is presumed to represent such client before the appellate court. Section 22 of Rule 138 creates this presumption, thus:

SEC. 22. Attorney who appears in lower court presumed to represent client on appeal. — An attorney who appears de parte in a case before a lower court shall be presumed to continue representing his client on appeal, unless he files a formal petition withdrawing his appearance in the appellate court.

A reading of respondent Elena Garcia's letter to the RTC would show that she did not actually withdraw Atty. Magbitang's authority to represent respondents in the case. The letter merely stated that there was, as yet, no agreement that they would pursue an appeal.

In any case, an unauthorized appearance of an attorney may be ratified by the client either expressly or impliedly. Ratification retroacts to the date of the lawyer's first appearance and validates the action taken by him.[10] Implied ratification may take various forms, such as by silence or acquiescence, or by acceptance and retention of benefits flowing therefrom.[11] Respondents' silence or lack of remonstrance when the case was finally elevated

to the CA means that they have acquiesced to the filing of the appeal.

Moreover, a lawyer is mandated to "serve his client with competence and diligence." [12] Consequently, a lawyer is entreated not to neglect a legal matter entrusted to him; otherwise, his negligence in connection therewith shall render him liable. [13] In light of such mandate, Atty. Magbitang's act of filing the notice of appeal without waiting for her clients to direct him to do so was understandable, if not commendable.

The CA was likewise correct in holding that the case is within the jurisdiction of the RTC, not the DARAB.

For the DARAB to have jurisdiction over a case, there must be a tenancy relationship between the parties. It is, therefore, essential to establish all the indispensable elements of a tenancy relationship, to wit: (1) that the parties are the landowner and the tenant or agricultural lessee; (2) that the subject matter of the relationship is an agricultural land; (3) that there is consent between the parties to the relationship; (4) that the purpose of the relationship is to bring about agricultural production; (5) that there is personal cultivation on the part of the tenant or agricultural lessee; and (6) that the harvest is shared between the landowner and the tenant or agricultural lessee. [14]

Basic is the rule that jurisdiction is determined by the allegations in the complaint. [15] Respondents' complaint did not contain any allegation that would, even in the slightest, imply that there was a tenancy relation between them and the petitioners. We are in full agreement with the following findings of the CA on this point:

x x x A reading of the material averments of the complaint reveals that the principal relief sought by plaintiffs-appellants is for the nullification of the supposedly forged deed of sale which resulted in the issuance of TCT No. NT-188664 covering their 8-hectare property as well as its reconveyance, and not for the cancellation of CLOAs as claimed by defendants-appellees. Moreover, the parties herein have no tenurial, leasehold, or any other agrarian relations whatsoever that could have brought this controversy under the ambit of the agrarian reform laws. Neither were the CLOA awardees impleaded as parties in this case nor the latter's entitlement thereto questioned. Hence, contrary to the findings of the RTC, the herein dispute is purely civil and not agrarian in nature falling within the exclusive jurisdiction of the trial courts.

On the alleged deficiency of the appellants' brief filed before the CA by the respondents, suffice it to state that the requirements in Section 13, Rule 44 are intended to aid the appellate court in arriving at a just and proper resolution of the case. Obviously, the CA found the appellants' brief sufficient in form and substance as the appellate court was able to arrive at a just decision. We have repeatedly held that technical and procedural rules are intended to help secure, not to suppress, substantial justice. A deviation from a rigid enforcement of the rules may, thus, be allowed in order to attain this prime objective for, after all, the dispensation of justice is the core reason for the existence of courts. [16]

WHEREFORE, premises considered, the petition is DENIED. The Court of Appeals' Decision dated February 6, 2007 is AFFIRMED.

### **SO ORDERED.**

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., Nachura, and Peralta, JJ., concur.

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[1] Penned by Associate Justice Estela M. Perlas-Bernabe with Associate Justices Rodrigo V. Cosico and Lucas P. Bersamin (now a member of this Court), concurring; rollo, pp. 29-36.

[2] Penned by Judge Victoriano B. Cabanos; rollo, pp. 37-38.

[3] Rollo, p. 38.

[4] Records, p. 105.

[5] Id. at 106.

[6] Id. at 108.

[7] Id. at 109.

[8] Rollo, pp. 35-36.

[9] Id. at 15.

[10] Land Bank of the Philippines v. Pamintuan Development Co., G.R. No. 167886, October 25, 2005, 474 SCRA 344, 350.

[11] Chong v. Court of Appeals, G.R. No. 148280, July 10, 2007, 527 SCRA 144, 160.

[12] Code of Professional Responsibility, Canon 18.

[13] Code of Professional Responsibility, Canon 18, Rule 18.03.

[14] Heirs of Julian dela Cruz and Leonora Talaro v. Heirs of Alberto Cruz, G.R. No. 162890, November 22, 2005, 475 SCRA 743, 758.

[15] Philippine Veterans Bank v. Court of Appeals, G.R. No. 132561, June 30, 2005, 462 SCRA 336, 342.

[16] Acme Shoes, Rubber & Plastic Corp. v. Court of Appeals, 329 Phil. 531 (1996).

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