

EMILIA SOMODIO, PETITIONER, VS. COMMISSIONER RUFO S. SUCALDITO AND COURT OF AGRARIAN RELATIONS, 8TH REGIONAL DISTRICT, RESPONDENTS.

G.R. No. 20262. May 11, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Petitioner Emilia Somodio seemingly seeks the review by certiorari of an order of Commissioner Rufo S. Sucaldito, of the Eighth Regional District of the Court of Agrarian Relations.

Said Mrs. Somodio is admittedly the owner of a small tract of land of about two (2) "fanegas", located in the barrio of Bita-og-Taytay, municipality of Zarraga, province of Iloilo, which had been cultivated by Isidro Sotelo, as her tenant. On June 8, 1962, the latter filed with said Regional District a complaint - docketed as CAR Case No. 1284 - alleging that he had been cultivating said land, as Mrs. Somodio's tenant, since 1952; that, on or about May 29, 1962, after he had prepared the seedbed and plowed half of the land, Mrs. Somodio - who had, prior thereto, threatened to eject him therefrom - caused the remaining portion of the land to be plowed by her agents; that she had, for several years, given him less than the share due him under the law; and that, despite his demands, she had refused to give him the balance of the share to which he was legally entitled. Sotelo prayed, therefore, that a writ of preliminary injunction be issued restraining Mrs. Somodio or her agents from threatening to dispossess, or committing acts tending to dispossess him of said land and that, after due hearing, said injunction be made permanent and Mrs. Somodio ordered to deliver to him the afore-mentioned balance of his share, as well as to pay attorney's fees and other expenses of litigation.

Upon denial of a motion to dismiss of Mrs. Somodio, she filed her answer denying some allegations of the complaint and admitting other allegations thereof, and affirming, inter alia, that Sotelo had been her tenant, but only from 1959 to 1961; and that, in the latter year, he voluntarily returned the land to Mrs. Somodio. She, likewise, set up a counterclaim for moral damages and attorney's fees.

Subsequently, or on July 16, 1962, Sotelo filed an urgent motion for a preliminary injunction, which was not objected to by Mrs. Somodio, despite the fact that her counsel had seasonably received copy thereof. Before passing upon the merits of said motion, Commissioner Sucaldito of the aforementioned Regional District, issued an order authorizing Atty. Salvador Baylen, a Legal Aide of the CAR, to conduct an ocular inspection, on July 22, 1962, at 9:00 a.m., in the presence of the parties or their authorized representatives, and find out who among the parties is in actual, physical possession of the land. Immediately after making said ocular inspection, Atty. Baylen submitted his report stating that the land is in the material possession of Sotelo. The next day, or on July 23, 1962, Commissioner Sucaldito issued the order complained of, directing Mrs. Somodio "to desist from disturbing, harassing or threatening" Sotelo; "to refrain from working" on said land; and "to maintain petitioner peacefully thereon until final determination of this case."

On July 31, 1962, Mrs. Somodio moved for the reconsideration of said order and filed an ex-parte urgent motion

to stay the execution thereof. But both were denied on August 1, 1962. On August 22, 1962, Mrs. Somodio filed with this Court the herein petition for review by certiorari, praying, inter alia, that said petition be given due course, pursuant to Republic Act No. 1267, Section 13; that the order of respondent Sucaldito dated August 1, 1962 be declared null and void; and that, pending decision by this Court, a writ be issued suspending the execution of the order of July 23, 1962. On October 10, 1962, this Court issued said writ.

The present proceedings should be dismissed.

To begin with, it purports to be an appeal under Section, 13, of Republic Act No. 1267, which is quoted on the margin.[1] Said provision refers, however, to final orders or decisions of the Court of Agrarian Relations. It is inapplicable to the orders complained of, the same being interlocutory.[2] In fact, no decision or final order has as yet been rendered, either by the Court of Agrarian Relations or by Commissioner Sucaldito.

If Mrs. Somodio did not agree with the orders of July 23 and August 1, 1962, her remedy was to appeal to the Associate Judge assigned to the Eighth Regional District of the CAR, but Mrs. Somodio has not done so.

Thirdly, the records do not show that Commissioner Sucaldito had abused his discretion in issuing said orders. It should be noted, in this connection, that one of the main issues - if not the most important issue - raised in the pleadings is whether or not Sotelo was actually in possession of the landholding in question, and that, before passing upon the merits of Sotelo's urgent motion for the issuance of a writ of preliminary injunction, Commissioner Sucaldito caused an ocular inspection to be made in the presence of Mrs. Somodio and her counsel and that the ocular inspection revealed that the party in possession of the litigated land is Sotelo, not Mrs. Somodio.

Fourthly, although a bond had not been filed by Sotelo before the issuance of said writ, this appears to be justified by the language of Rule 11 of the Rules of the CAR. Indeed, Section 3 of said Rule 11[3] (explicitly authorizes CAR Commissioners to "issue interlocutory orders in ejectment cases directing the landholder to desist from ejecting the tenant from the landholding pending the final determination of the case on its merits," without requiring a bond. Upon the other hand, Section 2 of the same Rule expressly provides that the Court may require, not only a bond, but "a cash bond" to stay the execution of the aforementioned interlocutory orders.[4] Thus, the intent to permit the issuance thereof, without requiring a bond therefor, is manifest. What is more, it is easily understandable, for, otherwise, the order of desistance would, in many, if not most, cases, be useless, since tenants generally have no property that could serve as security for a bond.

WHEREFORE, the petition herein should be, as it is here-by dismissed, and the writ of preliminary injunction issued by this Court on October 10, 1962, dissolved, with costs against petitioner Emilia Somodio.

SO ORDERED.

Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Castro, JJ., concur.

[1] "Appeal may be taken from an order or decision of the Court of Agrarian Relations promulgated under the provisions of this Act and a review of such order or decision may be obtained in the Supreme Court by filing in such court within fifteen days from receipt of such order or decision a written petition praying that it be modified or set aside in whole or in part. The review by the court shall be limited to questions of law, and findings of fact when the decision is not supported by substantial evidence."

[2] Section 1 of Rule 11 of the Rules promulgated by the CAR, pursuant to Section 10 of Republic Act No. 1267, provides:

"Sec. 1. Definition of interlocutory orders; issuance by the Court or Commissioner. - Interlocutory orders are those which do not affect disposition on the merits of the case and shall be issued by the Court or the Commissioners pending final determination of the case when they are deemed necessary for the best interest of the parties."

[3] "Sec. 3. - When and how issued by commissioners; immediate execution; when revoked, modified or execution stayed. - The Commissioners may, upon motion of the interested party and after hearing, or when justified by verified pleadings, issue interlocutory orders in ejectment cases directing the landholder to desist from ejecting the tenant from the landholding pending the final determination of the case on its merits. x x x

"Such interlocutory orders issued by the Commissioners shall be immediately executory, unless the same are revoked or modified by the Court or their execution stayed in the manner provided in the preceding section for the stay of execution of interlocutory orders issued by the Court."

[4] Sec. 2. Immediate Execution of interlocutory orders of courts; requisites for stay. - All interlocutory orders issued by the court shall be immediately executory. The execution of such orders shall not be stayed unless the court in its discretion so orders, upon petition by the party adversely affected thereby and after a good cause therefor is shown in which event the court may require said party to file a cash bond to answer for whatever the other party may suffer by reason of the stay."

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