

**JOSE BERENGUER, JR., PETITIONER, VS. COURT OF APPEALS,
MAMERTO VENASQUEZ, MANUEL F. VENASQUEZ, BIENVENIDO C.
ZABALA, CONRADO RIVERA AND RUFINO RIVERA, RESPONDENTS.**

G.R. No. 60287. August 17, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Whether or not agricultural tenancy exists between the petitioner and the private respondents is the principal issue in this petition for review of the decision of the Court of Appeals which affirmed the ruling of the Court of Agrarian Relations, Fifth Regional District, Branch II of Angeles City declaring the private respondents as agricultural tenants of the petitioner.

The pertinent facts as borne out by the records are as follows:

On September 23, 1976, an action to recover possession of the landholdings in question consisting of about 11.5 hectares situated in Batasan, Arayat, Pampanga was filed with the agrarian court at Angeles City by the private respondents as the alleged tenants against the petitioner landowner.

It is alleged in the complaint that the private respondents are the agricultural tenants of the petitioner's rice land on a 50-50 sharing basis; that sometime during the month of February 1975, the petitioner being an agriculturist asked them to allow him to do the planting of palay on his landholding for experimental purposes; that the petitioner promised to return the landholding to them in the same year after the harvesting of the crops to be planted thereon; that after the palay crops planted by the petitioner were harvested, the private respondents demanded the return of their respective landholdings but the former refused; that thereafter, mediation proceedings were conducted at the Department of Agrarian Reform (DAR) office at Sta. Ana, Pampanga but no settlement was reached; and that the petitioner, together with one Eliseo Pongco, is again working on the private respondents' landholdings by means of force and threats (pp 1-3, Original Records).

The complaint asked for the issuance of a writ of preliminary mandatory injunction to enjoin the petitioner from entering the premises and from committing further acts of dispossession against the private respondents. The temporary restraining order was granted.

The petitioner, on the other hand, contends that the private respondents are not his agricultural tenants; that respondent Mamerto Venasquez merely personally borrowed the entire landholding subject of the complaint from the petitioner and voluntarily returned the possession of the same and that since January 1975, the petitioner has been working on the said landholding as the actual owner-tiller and cultivator thereof.

After an appreciation of the evidences presented by both parties, the agrarian court, on September 16, 1981, rendered a decision adverse to the petitioner with the following dispositive portion:

"WHEREFORE, in the interest of justice, judgment is hereby rendered in favor of the plaintiffs, in the following tenor:

"1.) Declaring them to be agricultural tenants on their respective landholdings and entitled to recover possessions thereof from the defendant;

"2.) The restraining order issued by this Court, dated September 28, 1976, placing the plaintiffs in possession of their respective landholdings and enjoining the defendant or any other persons acting for and in his behalf, from entering the premises and committing acts of dispossession against herein plaintiffs, is hereby made permanent.

"All other claims are denied for insufficiency of evidence.

"No pronouncement as to costs." (p. 329, Original Records)

From the above decision, the petitioner appealed to the Court of Appeals which found the agrarian court's ruling supported by substantial evidence and affirmed the same in toto. (p. 14, Rollo)

The petitioner, in this case before us, faults the appellate court for having acted without or in excess of jurisdiction and/or with grave abuse of discretion, in that -

"I

The Court of Appeals agreed with the CAR'S alleged finding of fact that respondents are agricultural tenants of petitioner. But, that finding is not supported by any evidence whatsoever - and worse, contrary to and/or against the evidence presented.

"II

The Court of Appeals grossly erred in holding that the CAR decision is supported by substantial evidence.

"III

The Court of Appeals grossly erred in holding that the CAR'S conclusion in its decision is not against the law and jurisprudence." pp. 11, 18 & 26, Rollo)

The petitioner, in ascribing as an alleged error the holding that CAR's decision is supported by substantial evidence, relies on the investigation Report and Recommendation dated May 30, 1979 submitted by the Hearing

Officer of the Ministry of Agrarian Reform pursuant to Presidential Decree 316 and DAR Memorandum Circular No. 29 requiring said officer to certify whether the present case is proper for trial or not. The petitioner further claims that the CAR decision which the Court of Appeals readily affirmed completely disregarded and ignored without reason the findings of facts made after proper hearing and extensive investigation by the aforementioned MAR's hearing officer. In his finding that there was no clear showing of the existence of a tenancy relationship between the contending parties, said officer gave eight reasons to support the same, namely:

"First, common sense dictates that a tenant clearly knows his arrangement with his landowner. It is inconceivable for a tenant not to know his sharing arrangement as he depends on the same for his sustenance and as well as that of his family. In the complaint, all the plaintiffs alleged that they share with defendant Jose Berenguer, Jr., on a 50-50 sharing basis. However, in their affidavits submitted with the Court as well as with this office, they uniformly stated that the sharing basis is 45-55. x x x.

"Second, xxx in his affidavit, Mr. Berenguer specifically stated, that in 1955 he returned to Arayat, Pampanga to supervise the family's 70 hectares Of agricultural landholdings x x x; and in 1957, the tenants of about 50 hectares of the same voluntarily re-turned and surrendered the landholdings to then. Since that time, they never worked the said landholdings by tenancy but only by administration by the use of machineries, hiring few seasonal workers who were paid on a daily basis and some by percentage basis. One of the seasonal workers was Mamerto Venasquez who was employed by them on and off from 1955 to 1968. x x x. The undersigned is of the belief that this allegation or claim of the defendant Jose Berenguer, Jr., equally deserves a thorough analysis. x x x.

"Third, no single evidence was produced by plaintiffs that defendant shared with their harvest except testimonial. x x x. While plaintiff Mamerto Venasquez claimed that there was a record of the liquidation, he was not however able to produce any receipt showing that he shared with Mr. Berenguer his harvest. x x x.

"Fourth, xxx [T]his office is not prepared to accept 100% the tenability of this postulate of plaintiffs especially so when the alleged borrowing was, according to plaintiff Mamerto Venasquez, without any monetary consideration or similar thereto whatsoever. This is not to declare however that the same is not true. Only it is highly improbable for tenants to lend their landholdings for experimental purposes or for other purposes to another without any remuneration at all when the same is their principal or sole source of livelihood. This the plaintiffs failed to satisfactorily explain in the premises. xxx.

"Fifth, this office is at a quandary why it took plaintiffs a long time to demand the return of the land-holding to them by Mr. Jose Berenguer, Jr., if indeed said promise was made. x x x.

"Sixth, plaintiffs, except Mamerto Venasquez, alleged that they were taken in as tenants by Mamerto Venasquez with the consent of defendant. x x x. The alleged authority of Mamerto Venasquez was not sufficiently proven. x x x.

"Seventh, in the complaint, a very serious charge was made by plaintiffs, namely that of the alleged use by

defendant of force, threat, violence and intimidation to sustain his occupancy of the landholding x x x. In their affidavits also, they stated that Mr. Berenguer used violence threats and intimidation against them. However, during their cross-examination they seem not to know these alleged threats and intimidation.

"Eighth, more, defendant presented overwhelming evidence which deserves consideration although not necessarily belief. It is admitted that since 1975 defendant is the actual tiller thereon." (pp. 11-16, Exhibit "12")

We find merit in the petitioner's contentions.

It is beyond cavil that, as a rule, findings of fact of the Court of Appeals and trial courts are final and conclusive provided they are borne out by the record or are based on substantial evidence. (See *Sese v. Intermediate Appellate Court*, 152 SCRA 585; *Vallarta v. Intermediate Appellate Court*, 151 SCRA 679; *Tolentino v. Court of Appeals*, 150 SCRA 26). On substantial evidence, we held, in the case of *Bagsican v. Court of Appeals* (141 SCRA 226) citing *Picardal v. Lladas* (21 SCRA 1483) that:

"Substantial evidence does not necessarily import preponderant evidence, as is required in an ordinary civil case. It has been defined to be such relevant evidence as a reasonable mind might accept as adequate to support a conclusion x x x." (See *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635; *Tolentino v. Court of Appeals*, supra, citing *Philippine Metal Foundries, Inc. v. Court of Industrial Relations*, 90 SCRA 135 [1979]; *Police Commission v. Lood*, 127 SCRA 757 [1984]; and *Cañete v. Workmen's Compensation Commission*, 136 SCRA 302 [1985]).

After a careful examination of the records of the instant case, we rule that the findings of fact made by the Court of Agrarian Relations which the public respondent affirmed are not supported by substantial evidence, hence such findings are not binding on us (*Andres v. De Santos*, 55 SCRA 623). We now re-examine the evidence on hand.

It is a matter of jurisprudence that tenancy is not purely a factual relationship dependent on what the alleged tenant does upon the land but more importantly a legal relationship. (*Tuazon v. Court of Appeals*, 118 SCRA 484) Under Section 3 of Republic Act No. 1199, otherwise known as the Agricultural Tenancy Act, the term "agricultural tenancy" is defined as -

"[T]he physical possession by a person of land devoted to agriculture belonging to, or legally possessed by, another for the purpose of production through the labor of the former and with the members of his immediate farm household, in consideration of which the former agrees to share the harvest with the latter, or to pay a price certain or ascertainable, either in produce or in money, or in both."

Section 5 subparagraph (a) of the same Act reads:

"A tenant shall mean a person who, himself and with the aid available from within his immediate farm household cultivates the land belonging-to, or possessed by another, with the latter's consent for purpose of production, sharing the produce with the landholder under the share tenancy system, or paying to the landholder a price certain or ascertainable in produce or in money or both, under the leasehold tenancy system." (*Italics supplied*)

Respondent Mamerto Venasquez claims that he has been tenant and overseer of the landholding in question from 1950 up to 1974 while the other private respondents declare in their respective affidavits (Exhs. "A", "B", "D" and

"E") that they were taken in as tenants by Venasquez in his capacity as overseer of the petitioner landowner.

The aforementioned provisions expressly require the consent, of the true and lawful landowner before a tenancy relationship can be created. As far as the private respondents who based their status as tenants on their agreement with the alleged overseer Mamerto are concerned, the element of consent is unmistakably absent. There is no showing that the petitioner-landowner authorized Mamerto to employ on the former's behalf any tenants on the landholding under consideration. Neither did the said private respondents substantiate their claim that the petitioner personally knew about their arrangements with Mamerto. Their self-serving statements regarding their tenancy relations with the petitioner cannot establish the claimed relationship.

With respect to the assertion made by respondent Mamerto Venasquez that he is not only a tenant of a portion of the petitioner's landholding but also an overseer of the entire property subject of this controversy, there is no evidence on record except his own claim in support thereof. The witnesses who were presented in court in an effort to bolster Mamerto's claim merely testified that they saw him working on the petitioner's landholding. More importantly, his own witnesses even categorically stated that they did not know the relationship of Mamerto and the petitioner in relation to the said landholding. (tsn., February 19, 1981, pp. 9 and 19; tsn., March 16, 1981, p. 10). The fact alone of working on another's landholding does not raise a presumption of the existence of agricultural tenancy. Other factors must be taken into consideration like compensation in the form of lease rentals or a share in the produce of the landholding involved.

Anent compensation, the private respondents maintain that the cavans of palay given to the petitioner represented his share in the harvest. On the other hand, the petitioner avers that said cavans were payment in the form of palay for tractor services with rotavator and drag harrow; for the use of the irrigation pump unit owned by the petitioner's sister; and for the reimbursement of the diesel fuel drawn by Mamerto from the fuel stock in town. Considering that substantial evidence does not only entail the presence of a mere scintilla of evidence (See *Ang Tibay v. Court of Industrial Relations*, supra) in order that the fact of sharing can be established, we are constrained to rule that there is no concrete evidence on record adequate enough to prove that the element of sharing is present.

It is unthinkable, as correctly pointed out by the hearing officer of the then Ministry of Agrarian Reform that the private respondents, the alleged tenants, did not know exactly their sharing arrangement with the petitioner-landowner, if indeed, said sharing arrangement existed. Moreover, nothing in the records bespeaks of the alleged liquidation of the produce of the petitioner's landholding to conform to the said sharing arrangement except the private respondents' own testimonies. The finding made by the public respondent that:

"x x x [W]hether their sharing arrangement is 50-50% or 45-55%, plaintiffs had adduced evidence on sharing. xxx." (Rollo, p. 63)

is manifestly erroneous. The only evidence on sharing presented by the private respondents were their self-serving statements which were yet conflicting. In open court/ private respondent Manuel Venasquez testified that the 45-55% is the correct sharing basis (tsn., p. 7, Oct. 28, 1977); private respondent Bienvenido Zabala stated that their sharing agreement was on a 50-50% basis but the actual sharing had been on a 45-55% until the time of the controversy (tsn., p. 6, July 12, 1979); according to private respondent Rufino Rivera, the sharing was on a 50-50% basis (tsn., p. 8, February 18, 1977); according to private respondent Mamerto Venasquez, initially the sharing was 50-50% but later it became 45-55% (tsn., p. 43, March 30, 1981). In their complaint, all the private respondents alleged that they shared with the petitioner on a 50-50% basis. In their affidavits, however, which were submitted to the Court of Agrarian Relations as well as to the Ministry of Agrarian Reform, all of them

stated that the sharing basis was 45-55%. In the absence of any substantial evidence from which it can be satisfactorily inferred that a sharing arrangement is present between the contending parties, we, as a court of last resort, are duty-bound to correct inferences by the courts below which are manifestly mistaken or absurd. (See *Lacuna v. Intermediate Appellate Court*, 150 SCRA 460).

How the petitioner was able to acquire possession of his entire landholding in 1975 to the exclusion of the private respondents who used to work on some portions thereof is a question that is not material to the issue of agricultural tenancy in this case. Without the essential elements of consent and sharing, no tenancy relationship can exist between the petitioner and the private respondents (See *Graza v. Court of Appeals*, G.R. No. 48368, June 29, 1988; *Magno-Adamos v. Hon. Bagasao*, G.R. No. 63671, June 28, 1988).

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is hereby GRANTED. The decision appealed from is REVERSED and SET ASIDE. The mandatory injunction issued on March 31, 1982 is DISSOLVED and the private respondents are ordered to surrender possession of the disputed landholdings to the petitioner.

SO ORDERED.

Fernan, C.J., Feliciano, Bidin and Cortes, JJ., concur.

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