

**GREGORIO PALACOL, PEDRO D. PALACOL, AND ELEANOR D. PALACOL, PETITIONERS, VS. HON. COURT OF APPEALS, BRUNO BUMANGLAG, RUFO DOMINGO, FAUSTINO NOVENO, SAMUEL FERIA, MAXIMO OLIGO, V...**

*G.R. No. 60930. February 20, 1984*

Ponente: DE CASTRO, J.

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**DE CASTRO, J.:**

Petition for review on certiorari of the decision[1] of the respondent Court of Appeals (now the Intermediate Appellate Court) issued on March 22, 1982 in CA-G. R. No. SP-12923 entitled "Bruno Bumanglag, et al., petitioners, versus Hon. Hermenegildo A. Prieto, Sr. etc., et al., respondents," as well as of its resolution[2] denying petitioners' motion for reconsideration.

Records show that the herein petitioners had filed Civil Case No. 256 before the then Court of First Instance of Isabela, Branch IV, for the recovery of possession and ownership of four parcels of land at Bagnos, Aurora, Isabela, with damages, against Glicerio Domingo, married to Salud Espiritu. After due hearing, the lower court rendered judgment on July 29, 1981 declaring the petitioners as the absolute owners of the land in suit and ordering, inter alia, the defendants and the tenants they instituted to vacate and deliver the possession of the subject land to the petitioners, as the plaintiffs below.

On August 14, 1981, the lower court, on motion of the petitioners duly opposed by the defendants, issued an Order declaring the above-judgment immediately executory pending appeal. In said order, however, the execution of the decision as against the tenants was stayed "until the principal case is finally decided by the Appellate Court should the defendants decide to appeal." [3]

On August 21, 1981, the herein private respondents who are claiming to be the legitimate tenants of the four parcels of land subject of Civil Case No. 256, filed a special civil action of certiorari with the respondent appellate court to annul and set aside the decision of the lower court in so far as it ordered them to vacate and deliver to the petitioners the possession of the litigated property, on the ground that the assailed judgment is null and void for having been rendered without jurisdiction, they being not parties to the case. They complained that from the time the above-mentioned decision of the lower court dated July 29, 1981 was rendered, the herein petitioners have been harassing and molesting them, telling them to vacate the premises of the land in suit.

On March 22, 1982, the respondent court rendered the herein questioned decision setting aside that portion of the judgment of the lower court adverse to the herein private respondents upon a finding that the latter, not being parties to Civil Case No. 256 and therefore not given the opportunity to be heard, cannot be ordered to vacate the premises of the disputed land, otherwise, their constitutional right to due process would thereby be infringed. Unable to obtain a reconsideration, the present petition was filed.

Whether the respondent appellate court acted with grave abuse of discretion in declaring as null and void and in

setting aside the judgment of the lower court in so far as it orders the herein private respondents to vacate and deliver the possession of their landholdings to the herein petitioners, is a question which need not be resolved in this petition for review, in view of the express manifestation and assurance of the petitioners that private respondents will not be removed as tenants of the disputed land. As petitioners themselves alleged, such issue has been rendered moot and academic.

Petitioners, however, pray that private respondents be directed to deliver to them the landowner's share of the produce of the subject parcels of land pursuant to the decision of the lower court declaring them as owners thereof. Considering, however, that the defendants in Civil Case No. 256 has appealed the judgment of the lower court, which appeal is pending before the now Intermediate Appellate Court, docketed as CA-G. R. No. 70195-R, and considering further that the records do not show whether the Order of the lower court dated August 14, 1981 declaring its judgment immediately executory pending appeal was executed or not, and it appearing that the parties had entered into an agree-ment dated November 22, 1982 whereby it is agreed that the landowner's share of the harvest be deposited with Ernesto Subia, owner of a bonded warehouse, to wait for the final outcome of the case, the remedy which appears best and reasonable under the circumstances is to direct the parties to abide with their above-mentioned agreement.

WHEREFORE, judgment is hereby rendered directing the private respondents, as the admitted tenants of the subject parcels of land, to deposit the landowner's share of their harvest with Ernesto Subia, as above indicated, to await the final disposition of the appeal in CA-G.R. No. 70195-R. SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Guerrero, Abad Santos, and Escolin, JJ., concur.

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[1] pp. 49-51, Rollo.

[2] p. 52, Id.

[3] p. 32, Rollo.

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