

PHILIPPINE NATIONAL BANK, PETITIONER, VS. THE HON. TEODORO N. FLORENDO, JUDGE OF THE COURT OF AGRARIAN RELATIONS, 12TH REGIONAL DISTRICT, BRANCH IV, DUMAGUETE CITY; VIVIENNE B. ...

G.R. No. 62082. February 26, 1992

Ponente: BIDIN, J.

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BIDIN, J.:

This is a petition for certiorari with preliminary injunction seeking to annul and set aside the: (a) order of the respondent judge dated May 31, 1982 admitting private respondents' "First Amended Complaint" in CAR Case No. 532 entitled "Vivienne B. Vilorio, et al. vs. Philippine National Bank, et al" for declaration of nullity of the foreclosure proceedings in violation of P.D. Nos. 27 and 946; (b) order dated June 3, 1982 denying PNB's opposition to the first amended complaint; and (c) order dated June 28, 1982 denying PNB's motion for reconsideration.

The undisputed facts are as follows:

Plaintiffs are tenants of four (4) parcels of land located in the Municipality of Mabinay, Negros Oriental, whose previous owner Ricardo Valeroso, mortgaged the same to the Philippine National Bank (PNB, for short). In 1971, said parcels of land were bought by spouses Agripino and Soledad Vilorio who assumed the mortgage with PNB (Rollo, Comment, p. 90).

In 1974, defendant PNB requested defendant Provincial Sheriff of Negros Oriental to foreclose the mortgage on the aforesaid parcels of land after the failure of the owners thereof to pay certain amortization and the same was sold at public auction to the defendant bank as the highest bidder (Rollo, Brief for Private Respondents, p. 147; Annex "2", p. 3). Notwithstanding the fact that said lands were already brought under the Land Reform Program of the government, the PNB caused the titles to said parcels of land transferred in its name to the prejudice of plaintiffs (Rollo, Ibid.).

On September 8, 1981, plaintiffs Vivienne B. Vilorio, et al. filed a complaint for "Declaration of Nullity of the Foreclosure Proceedings in Violation of P.D. Nos. 27 and 946" against the defendants PNB, et al. in the Court of Agrarian Relations, 12th Judicial District, Branch IV, Dumaguete City.

On October 7, 1981, defendant PNB answered the complaint with counterclaim for damages. Plaintiffs, in turn, filed their reply to the counterclaim dated October 10, 1981. Defendant PNB then moved for leave of court to file third party complaint dated October 20, 1981 against the registered owners-mortgagors of the subject parcels of land.

Plaintiffs Vivienne Vilorio, et al. moved for the amendment of their complaint to implead the heirs of the deceased plaintiff-- Agripino Vilorio which respondent Judge admitted in an order dated February 26, 1982.

On May 28, 1982, private respondents Vivienne Viloria, et al. moved to further amend their amended complaint. Notable amendment introduced in the First Amended Complaint is the inclusion of another parcel of land as subject matter thereof, described as follows:

"E - Transfer Certificate of Title No. 42836, a parcel of land (Lot 787-B-2-A of the subdivision plan, Psd-54375, being a portion of Lot 7887-B-2 described on plan Psd-956, L.R.C. Record No. 9465), with all improvements thereon situated at Cebu City. Bounded on NE., along line 1-2 by lot 785, Cebu Cadastre; on the SE., along line 2-3, by lot 787-A, Cebu Cadastre; on the SW., along line 3-4, by Lot 787-B-2-B of the subdivision plan; and on the NW., along line 4-1 by lots 788-A-1 and 788--A-2 of plan Psd-17436. Containing an area of TWO HUNDRED NINETY-FOUR square meters (294) more or less."

Said property belongs to the spouses Agripino and Soledad Viloria and mortgaged also with PNB. It is further alleged that:

"While letter 'E' is the property located in Cebu City and mortgaged with defendant Bank should be considered as one and indivisible with the mortgage executed upon the four (4) parcels of land situated at Mabinay (Negros Oriental) and were put under Land Reform by virtue of the real estate mortgage executed and signed by the spouses land owner Agripino and Soledad Viloria which portion of the Real Estate Mortgage document specifically paragraph No. 2 which states "That for and in consideration of certain loans, overdrafts and other credit accommodations obtained from the mortgage, which is hereby fixed at P115,449.-61 Philippine Currency, and to secure the payment of the same and those others that the mortgage may extend to the mortgagor including interest and expenses and other obligations owing by the mortgagor to the mortgagee whether direct or indirect or secondary..." (Rollo, Petition, p. 5).

PNB opposed the admission of the aforesaid private respondents' First Amended Complaint on the grounds that there was no proper notice of hearing as required by the Uniform CAR rules of procedure, the impropriety of including TCT No. 42836 - a residential land situated in Cebu City as subject matter of the complaint and the failure of private respondents to attach a copy of the real estate mortgage contract upon which the action was based (Rollo, Annex "I", pp. 37-38).

In an order dated May 31, 1982, respondent Judge Florendo granted private respondents' Viloria, et al. motion and thus, admitted the First Amended Complaint. Said order states among others:

"Acting on the 'Motion to Amend Amended Complaint' dated May 28, 1982, filed by Ma. Corazon C. Locsin, counsel for plaintiffs, wherein the First Amended Complaint (pp. 285 to 290 inclusive) of the records was attached thereto, and it appearing that Atty. Norberto Denura, counsel for the defendant PNB, has received a copy of aforesaid motion and also a copy of the First Amended Complaint thereto attached, the 'Motion to Amend Amended Complaint' is hereby GRANTED and the First Amended Complaint is likewise hereby ADMITTED."

Petitioner PNB's motion for reconsideration of the above order was denied by respondent Judge Florendo in an order dated June 28, 1981.

Hence, the petition.

As prayed for in the petition, a temporary restraining order was issued by this Court pursuant to its resolution dated October 25, 1982 enjoining the respondent Judge from proceeding with the hearing of the case.

The First Division of this Court resolved to give due course to the petition in the resolution of March 16, 1983.

The principal issue in the instant case is whether or not the respondent Judge exceeded his jurisdiction in admitting the First Amended Complaint which adds another parcel of land not within the coverage of Operation Land Transfer pursuant to P.D. 27.

The petition is impressed with merit.

Upon the abolition of the Court of Agrarian Relations by BP 129 enacted on August 10, 1981 and fully implemented on February 14, 1983, jurisdiction over agrarian disputes is now vested in the appropriate Regional Trial Court pursuant to the provisions of Sec. 19(7) of the said law (*Locsin v. Valenzuela*, 173 SCRA 454 [1989]; *Enrique v. Fortuna Mariculture Corporation*, 158 SCRA 651 [1988]).

In view of such supervening event, it is now the appropriate Branch of the Regional Trial Court of Negros Oriental that has jurisdiction over the case. Be that as it may, the same law provides that whenever a Regional Trial Court takes cognizance of agrarian cases, the special rules of procedures applicable under the present laws to such cases shall continue to be applied, unless amended by law or by rules of court promulgated by the Supreme Court (Sec. 24, BP 129).

Coming back to the case at bar, petitioner contends that Lot No. 787-B-2-A (formerly covered by TCT No. 42836, now TCT No. 75805-PNB) being a residential/commercial and non-agricultural land situated at Cebu City is not within the coverage of the Operation Land Transfer, thus not within the jurisdiction of the Court of Agrarian Relations.

Jurisdiction, in general, is either one over the nature of the action, over the subject matter, over the person of the defendants or over the issue framed in the pleadings (*Balais v. Balais*, 159 SCRA 37 [1988]). Jurisdiction over the subject matter, on the other hand, is "conferred by law and does not depend on the consent or objection or the acts or omissions of the parties or any one of them (*Republic v. Sangalang*, 159 SCRA 515 [1988]). The law which conferred jurisdiction on the Court of Agrarian Relations, now transferred to the appropriate Branch of the Regional Trial Court, concerning agricultural lands, is P.D. 946 which provides, among others:

"Sec. 12. Jurisdiction Over Subject Matter - The Court of Agrarian Relations shall have original and exclusive jurisdiction over:

- a) Cases involving the rights and obligations of persons in the cultivation and use of agricultural land x x x;
- b) Questions involving rights granted and obligations imposed by laws, pre-sidential decrees, Orders, Instructions, Rules and Regulations issued and promulgated in relation to the agrarian reform program;

x x x x x x x x

- e) Cases involving the sale, alienation, mortgage, foreclosure, pre-emption and redemption of tenanted agricultural land; (underscoring supplied)

x x x x x x x x"

Accordingly, the Court of Agrarian Relations (now RTC sitting as an agrarian court) could only entertain disputes over lands that are the subject of agrarian cases. Corollarily, lands that are not the subject of agrarian disputes should not be brought before it as an agrarian court. It has been the legislative policy to confine to the CAR exclusive jurisdiction over agrarian cases as well as their incidents (*Depositario v. Hervias*, 121 SCRA 756 [1983]).

The following factors indisputably established that the questioned land is beyond CAR's jurisdiction:

First, private respondents' *Viloria, et al.* admission in their Comment dated November 19, 1982 (Rollo, pp. 90-97) that Lot No. 787-B-2-A is a residential lot located at Cebu City.

Second, the certification by the Agrarian Reform Team No. 215 to the effect that subject lot is not within the coverage of the Operation Land Transfer pursuant to P.D. 27 (Annex "N", Rollo, p. 54). Such "official

certification can be considered as correct, if only because of the presumption of regularity that is stamped on it as an official document" (San Mauricio Mining Co. v. Ancheta, 105 SCRA 371 [1981]).

Indeed, amendment to pleadings are generally favored and should be liberally construed (PNB v. CA, 159 SCRA 433 [1988]), however, where the court has no jurisdiction over the subject matter of the case (Lot 787-B-2-A being a residential lot not covered by Operation Land Transfer under PD 27), it is evident that the amendment of the complaint could not be allowed so as to confer jurisdiction upon the court over said property.

It being apparent that the Court of Agrarian Relations has no jurisdiction over Lot No. 787-B-2-A aside from the fact that said court has already been abolished by BP 129, the issue as to its territorial jurisdiction has become moot and academic.

The propriety of the petition for certiorari is beyond question.

The order of the respondent Judge admitting the First Amended Complaint including therein said questioned Lot 787-B-2-A which is a residential lot not falling within the ambit of PD 27, hence, beyond CAR's jurisdiction, was issued in excess of jurisdiction. The term excess of jurisdiction signifies that the court, board or officer has jurisdiction over a case but oversteps such jurisdiction while acting thereon (Alhambra Cigar and Cigarette Manufacturing Co., Inc. v. Caleda, et al., 122 Phil. 355 [1965]). Verily, the writ of certiorari is granted "to keep an inferior court within the bounds of its jurisdiction x x x." (Aguilar v. Tan, 31 SCRA 205 [1970]). It is the proper remedy "where it clearly appears that the trial court is proceeding in excess or outside of its jurisdiction x x x" (Baloria v. Abalos, 32 SCRA 368 [1970]; Time, Inc. v. Reyes, 39 SCRA 303 [1971]; Ablan, Sr. v. Madarang, 41 SCRA 213 [1971]). Since the "office of the writ of certiorari has been reduced to the correction of defects of jurisdiction solely and cannot be legally used for any other purpose" (Albert v. CFI of Manila, Br. VI, 23 SCRA 948 [1968]), said remedy is available in the instant case to keep the trial court from proceeding in the case in excess of its jurisdiction.

The private respondents Vilorio, et al.'s contention that the petition for certiorari is premature since the order of the respondent judge could have simply been assigned as an error in the appeal by the petitioner in case of adverse judgment is not persuasive. Even when appeal is available and is the proper remedy, this court has allowed a writ of certiorari when the orders of the lower court were issued either in excess of or without jurisdiction (Aguilar v. Tan, supra).

WHEREFORE, the petition for certiorari is GRANTED and the orders dated May 31, June 3, and June 28, 1982 are hereby ANNULLED and SET ASIDE. The trial of CAR Case No. 532 on the merits is hereby ordered to be conducted in the appropriate Branch of the Regional Trial Court of Negros Oriental in view of the abolition of the Court of Agrarian Relations by BP 129 and the temporary restraining order issued by this Court dated October 25, 1982 enjoining the hearing of CAR Case No. 532 with respect to Lot No. 787-B-2-A (formerly covered by T.C.T. No. 43836 covering a parcel of land situated in Cebu City) is made PERMANENT.

SO ORDERED.

Gutierrez, Jr., (Chairman), Feliciano, Davide, Jr., and Romero, JJ., concur.

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