

DR. JOSE TONGSON AND CARMEN TONGSON, PETITIONERS, VS. COURT OF APPEALS AND LEONARDO ARELLANO, RESPONDENTS.

G.R. No. 77104. November 06, 1992

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is a petition for review on certiorari of the decision[1] of respondent Court of Appeals in CA-G.R. SP No. 10120-CAR dated 17 December 1986, the dispositive portion of which reads:

"x x x the decision under appeal is hereby affirmed except for this modification: the addition to the dispositive portion of subject decision of paragraph 4 which shall read: '4. directing defendants to pay to the plaintiff the amount of P16,000.00 as his share in the coconut and fruit harvests in the two areas tenanted by him (Exh. 'C-1' and Exh. 'C-2') for the years 1965 to 1981, plus legal interest due thereon up to the time of payment thereof.'"[2]

The foregoing affirms with modification the judgment[3] of the Regional Trial Court of Davao City in CAR Case No. 3485: "1. Declaring plaintiff as tenant of the defendants over the areas of the latter's landholding, to wit: (a) [a]n area of about one (1) hectare where plaintiff's house is located (Exh. 'C-1'); (b) [a]n area of about one (1) hectare on the hilly portion where bananas were planted (Exh. 'C-2'). 2. The sharing relationship between plaintiff and defendants shall be maintained in the following manner: on the proceeds of the coconut, 30% for plaintiff and 70% for defendants; on all other crops, 70% for plaintiff and 30% for defendants. 3. Declaring defendants as legal possessors of Area-6 (Exh. 'C-4') and dismissing plaintiff's claim for the return to his possession of Area-6 (Exh. 'C-4')." [4]

The antecedents: On 9 September 1981, private respondent Leonardo Arellano filed a complaint[5] with the then Court of Agrarian Relations of Davao City for reinstatement, delivery of shares in the produce, and damages. He alleged that he was a tenant on a parcel of land belonging to petitioners situated in Madapo Hills, Davao City, with an area of five (5) hectares; that before filing his complaint he was compelled to vacate one-half (1/2) of the area, thus depriving him of his 30% share from the harvests although he was paid P120.00 for the improvements thereon; and, that he still occupied the remaining half of subject property. Later, Arellano amended his complaint by seeking recovery of the possession of a portion consisting of 17,851 square meters, plus his shares in the proceeds of the harvests for sixteen (16) years prayed for in his original complaint.

In their answer,[6] petitioners contended that the tenancy relationship with Arellano was terminated in 1965 pursuant to an Amicable Settlement[7] and that there was no pause of action against them.

After trial, the lower court rendered judgment as herein-before quoted, which respondent Court of Appeals affirmed with modification. Thus –

"Indeed, the trial court in denying the claim of plaintiff for his share in the proceeds of the coconut and other fruit harvests from the land of defendants tenanted by plaintiff, pertaining to the years from 1965 to 1981 in the amount of P16,000.00, mainly relied on the absence of evidence on 'how much was harvested by defendants

from 1965 to 1981 x x x x' However, We find extant in the record evidence which can serve as basis in the computation of the abovesaid share claimed by plaintiff. Plaintiff testified as to the minimum of his share per annum based on the year he actually received his share, that is, in 1982. Plaintiff declared that in 1982 when the price of copra was P1.50 to P1.60 per kilo, the gross income which he realized from copra was about P2,000.00; and that, accordingly, he has computed that P1,000.00 per year would be his annual share from the coconut harvest from 1965 to 1981. Furthermore, appellant cites receipts showing the gross proceeds of copra in the year 1982. The foregoing claims of appellant have not been controverted by appellee."[8]

Petitioners now call for a review of the decision of the appellate court, arguing that there is no evidence to support the claim of private respondent and that such claim is already barred by prescription and laches.

On the other hand, private respondent would have the petition dismissed on the ground that it merely raises factual issues.[9]

Petitioners insist that their petition falls within the recognized exceptions to the rule that findings of fact of the Court of Appeals may not be reviewed by Us on appeal, more particularly: (1) that the finding of the Court of Appeals that there is evidence to support private respondent's claim is contrary to that of the trial court; and, (2) that the findings of the Court of Appeals are without citation of specific evidence on which they are based.

It has been oft-repeated in a long line of cases[10] that in petitions for review under Rule 45 of the Rules of Court, only questions of law may be raised since the factual findings of the Court of Appeals are deemed conclusive on the Supreme Court, subject to certain exceptions, namely: (a) where there is grave abuse of discretion; (b) when the finding is grounded entirely on speculations, surmises or conjectures; (c) when the inference made is manifestly mistaken, absurd or impossible; (d) when the judgment of the Court of Appeals is based on misapprehension of facts; (e) when the factual findings are conflicting; (f) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both appellant and appellee; (g) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and, (h) where the findings of fact of the Court of Appeals are contrary to those of the trial court, or are mere conclusions without citation of specific evidence, or where the facts set forth by the petitioner are not disputed by the respondent, or where the findings of fact of the Court of Appeals are premised on the absence of evidence and contradicted by the evidence on record.

We agree that the petition at bar falls under the recognized exceptions to the general rule. For, considering that the findings of respondent Court of Appeals are contrary to those of the trial court, We have to take cognizance of this petition in order to determine whether respondent appellate court was justified in deviating from the findings of the trial court.

Petitioners assert that there is nothing in evidence to support the conclusion of the Court of Appeals that private respondent is entitled to "the amount of P16,000.00 as his share in the coconut and fruit harvests in the two areas tenanted by him (Exhs. 'C-1' and 'C-2') for the years 1965 to 1981, plus legal interests due thereon up to the time of payment thereof." They claim that there is no basis for private respondent's computation that P1,000.00 per year would be his annual share from the coconut harvest from 1965 to 1981 because: (a) such amount cannot be presumed from respondent's testimony that in 1982 when the price of copra was P1.50 to P1.60 per kilo, the gross income he realized from copra was about P2,000.00; (b) he has not shown how many kilos of copra were produced per year; and, (c) he failed to show how he arrived at the net proceeds of P1,000.00. They contend that in order that private respondent may recover his alleged share in the produce of the land, it is necessary for him to prove in a satisfactory manner that he has a right to recover. In other words, private respondent must prove his own affirmative allegations because mere allegation is not evidence.

There is merit in the appeal.

As mandated by the Rules of Court, each party must prove his own affirmative allegation,[11] i.e., one who asserts the affirmative of the issue has the burden of presenting at the trial such amount of evidence required by law to obtain a favorable judgment: by preponderance of evidence in civil cases, and by proof beyond reasonable doubt in criminal cases.

In the case at bar, We agree with petitioners that the claim of private respondent has not been established by preponderance of evidence. Except for his own self-serving declarations, there is nothing in the records to support his claim. As correctly observed by petitioners, the claim of private respondent is not based on actual figures showing the number of coconut trees from where the copra was produced, the price of copra at the time of sale, the cost of labor, how many times copra was produced per year, the expenses deducted from the gross proceeds, etc. Under the circumstances, We find that there is no sufficient basis in awarding P16,000.00 to private respondent as his share for the years 1965 to 1981.

Most importantly, to award the tenant an amount equivalent to one-half of the gross income from the tenanted land devoted to coconut and other fruit trees is not in consonance with law. In case of share tenancy,[12] as in the case at bar, the sharing system on crops other than rice is provided in Sec. 41, R.A. 1199, otherwise known as the Agricultural Tenancy Act, as amended by R.A. 2263 -

"SEC. 41. Basis of Share in Crops other than Rice. - The landholder and the tenant on lands which produce crops other than rice shall be free to enter into any contract stipulating the ratio of crop division. In the absence of stipulation, the customs of the place shall govern: Provided, that whether the basis of division of the crop is the contract between the parties or the customs of the place, share of the tenant for his labor in the production shall not be less than thirty per cent of the harvest or produce after deducting the expenses for harvesting and/or initial processing; Provided, further, that in cases where the share of the tenant is, according to local practices or customs prevailing at the time of the approval of the act, more than the minimum herein set, the tenant's share thus established by local practices or customs shall prevail and be considered the minimum."

It is thus clear that whether the sharing is in accordance with stipulations or customs of the place, the law provides that the tenant's share for his labor in the production shall not be less than 30% of the harvest, after deducting the expenses for harvesting and/or initial processing. Also to be deducted from the gross harvest, as provided in Sec. 28, R.A. 1199, are the seeds, cost of fertilizer, pest and disease control and weeding, and expenses for the operation and maintenance of the irrigation system.

Dean Jeremias U. Montemayor, in his book "Labor, Agrarian and Social Legislation",[13] points to some sharing arrangements and principles approved by the courts for crops other than rice: "3. Coconuts: 70-30 in favor of the landholder after deducting expenses for harvesting, processing, hauling and premiums (*Abdon v. Maloles*, CAR Case No. 33-Quezon `56, August 14, 1956). 4. Corn. 1/3 - 2/3 in favor of the tenant if he owns the carabao and 50-50 if the landholder provides the work animal (*Ybañes v. Camboya*, CAR Case No. 70-Leyte `56, October 12, 1957; *Aguilar v. Rosaroso*, CIR Case No. 5670-R-Leyte, March 14, 1956). 5. Tobacco: x x x The Supreme Court has upheld a 50-50 sharing arrangement for this crop x x x 6. Onions. 50-50 basis (*Serrano v. Torres*, CAR Case No. 188-NE, `56, January 11, 1957)."

Thus, even assuming that the gross income from the land is P2,000.00 per annum, private respondent's share cannot be pegged at P1,000.00 per annum because the law provides that from the gross harvest the share of the tenant shall not be less than 30% after deducting expenses for harvesting and/or initial processing as well as expenses for the seeds, cost of fertilizers, pest and disease control and weeding, and the like.

Private respondent however failed to offer in evidence the alleged receipts of the copra proceeds from 1965 to

1981.[14] There is therefore nothing on record on which to base the computation of the share pertaining to private respondent. If at all, private respondent may be entitled to his share based on what the Court may perceive in the exercise of its discretion as a fair and reasonable estimate of the gross proceeds minus the expenses.

Unfortunately, private respondent's claim has already prescribed. Under Sec. 11, R.A. 1199, an action for accounting may be filed by the tenant within three (3) years from the date of the threshing of the crop in question. We have ruled in *Yusay v. Alojado*,[15] that accounting includes the determination, adjudication and settlement of what is due the landholder and the tenant under the law. Moreover, Sec. 38, RA. 3844, otherwise known as the Agricultural Land Reform Code, provides that "an action to enforce any cause of action under this Code shall be barred if not commenced within three (3) years after such cause of action accrued." Construing this provision in *Dolorfino v. Court of Appeals*,[16] We ruled that "the law does not specifically require a judicial action, hence, it can be an administrative action. *Ubi lex non distinguit nec nos distinguere debemos.*"

In the case before Us, there is no showing that private respondent has ever filed an administrative complaint to enforce his right arising from alleged deprivation of his shares of the harvests from 1965. It was only in 1981, or after sixteen (16) years from the time his cause of action supposedly accrued, that private respondent instituted a judicial action against petitioners. Clearly, private respondent is now barred from enforcing his right of action with respect to his supposed shares.

WHEREFORE, the petition is GRANTED. The judgment of respondent Court of Appeals modifying that of the trial court is SET ASIDE; consequently, the decision of the Regional Trial Court of Davao City, Branch XIII, is REINSTATED and AFFIRMED.

SO ORDERED.

Cruz, (Chairman), Padilla, and Griño-Aquino, JJ., concur.
Medialdea, J., on leave.

[1] Penned by Justice Lorna S. Lombos-de la Fuente with Justices Gloria C. Paras and Celso L. Magsino concurring.

[2] CA Decision, p. 8; Rollo, p. 41.

[3] Penned by Judge Cristeto D. Dinopol, Regional Trial Court of Davao City, Branch XIII.

[4] RTC Decision, p. 14; Records, p. 206.

[5] Records, pp. 1-4.

[6] Rollo, pp. 12-13.

[7] Exh. "1", Folder of Exhibits.

[8] CA Decision, pp. 7-8; Rollo, pp. 25-26.

[9] Answer, Rollo, pp. 49-56.

[10] *Saludo v. Court of Appeals*, G.R. No. 95536, 23 March 1992, citing *Ramos v. Pepsi Cola Bottling Co. of the P.I.*, No. L-22533, 9 February 1967, 19 SCRA 289; *Malaysian Airline System Bernad v. Court of Appeals*, G. R. No. 78015, 11 December 1987, 156 SCRA 321; *Abellana v. Dosdos*, No. L-19498, 26 February 1965, 13 SCRA 244; *Uytiepo v. Aggabao*, No. L-28671; 30 September 1971, 35 SCRA 186; *Carolina Industries, Inc. v. CMS Stock Brokerage, Inc.*, No. L-46908, 17 May 1980, 97 SCRA 734; *Garcia v. Court of Appeals*, No. L-26490, 30

June 1970, 33 SCRA 622; *Sacay v. Sandiganbayan*, G. R. Nos. 66497-98, 10 July 1986, 142 SCRA 593; *Manlapaz v. Court of Appeals*, G. R. No. 56589, January 12, 1987, 147 SCRA 236.

[11] Sec.1, Rule 131.

[12] See *Latag v. Banog* No. L-20098, January 31, 1966, 16 SCRA 88, with respect to the ruling when share tenancy exists.

[13] Vol. III, 2nd. Ed., 1968, p.129.

[14] Answer, p. 3, Rollo, p. 51.

[15] 107 Phil. 1156, 1157.

[16] G.R. No. 89545, 3 December 1990; 191 SCRA 880.

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