

SUZANO F. GONZALES, JR., PETITIONER, VS. HON. HEHERSON T. ALVAREZ, MINISTER OF THE MINISTRY OF AGRARIAN REFORM, BONIFACIO FRANCISCO, EME-TERIO REYES, GENEROSO SALVADOR, ALBERTO ...

G.R. No. 77401. February 07, 1990

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari with preliminary injunction seeking to set aside the December 24, 1986 Order of Hon. Heherson T. Alvarez, public respondent in MAR Co. Adm. Case No. III — 1,391-86, and to enjoin public respondent from implementing the same.

The decretal portion of the said Order reads:

"WHEREFORE, premises considered, the Orders dated November 15, 1985, December 26, 1985 and March 17, 1986 are hereby set aside and another one entered:

"1. Dismissing the instant petition of Suzano Gonzales for lack of merit.

"2. Declaring the subject land of Priscilla Libunao-Sevilla, now registered in the name of Suzano Gonzales under Transfer Certificate of Title Nos. T-291089, T-291091, T-291088, and T-29090 as covered by Operation Land Transfer under PD 27, insofar as the tenanted portion planted to rice or corn;

"3. Affirming all certificates of Land Transfer issued thereon in the names of its holders; and

"4. Directing the Center for Operation Land Transfer to generate and issue emancipation patents in favor of farmer beneficiaries thereon subject to existing rules and regulations of the Ministry.

"SO ORDERED." (p. 34, Rollo)

The antecedent facts of the case are as follows:

Priscilla Libunao-Sevilla was the owner of five (5) parcels of agricultural land in Sibul, San Miguel, Bulacan, with an aggregate area of seventy-two (72) hectares. About 47.75 hectares are devoted to the production of rice, corn and auxillary crops, while the rest is idle land. The area cultivated is tilled by 34 persons with their families claiming to be tenants of Sevilla since 1968 (Rollo, p. 111).

On October 20, 1975, Pedro Magahis bought seventy-two (72) hectares from Sevilla for the purpose of converting it into a sugarcane field, notwithstanding awareness of the presence of the tillers-claimants. He then paid earnest money of P62,500.00 with balance of P150,000.00 payable on or before May 31, 1976. Magahis surveyed and subdivided the farmholding of claimants Jose Burlungan and Emeterio Reyes without obtaining their consent. As a result thereof, Jose Burlungan and Emeterio Reyes filed a complaint against Magahis with the Department of Agrarian Reform Team Office at San Miguel, Bulacan. Investigation ensued as conducted by the Department of

Agrarian Reform Team Leader Miguel Mendoza. On March 10, 1976, DAR Trial Attorney Nicasio V. Bartolome issued an order directing the maintenance of the status quo relationship between the parties and that the tenant actual tillers should not be disturbed and/or molested in their peaceful possession and cultivation of the respective areas subject to any further action without prejudice to an extended order (Annex D, Petition, Rollo, pp. 46-48).

On May 26, 1976, a letter request for re-investigation was filed by Atty. Pedro Belmi, counsel for Magahis which was approved by the DAR Regional Director in Pampanga on July 8, 1976. Meanwhile, Priscilla Libunao-Sevilla, filed with the Court of First Instance of Bulacan, Fifth Judicial District, Branch V (Baliuag) a complaint for Specific Performance with Damages, docketed and entitled: Civil Case No. 692-B, Priscilla Lubunao-Sevilla v. Pedro Magahis (Petition, Rollo, p. 3). She also moved to intervene in the case against Magahis before the DAR which was granted in an order dated October 21, 1976. After evaluating the evidence presented before him, Atty. Bartolome, in his memorandum to the DAR Regional Director dated February 10, 1977 (Annex "E" Petition, Rollo, pp. 49-51) opined that complainant tillers are not tenants in contemplation of law and are therefore not entitled to security of tenure. Later, in a memorandum dated March 4, 1977, Atty. Camilo Nisce, acting on behalf of the Regional Director, concurred with the findings of Atty. Bartolome (Annex F, Petition 53).

On March 14, 1977, Sevilla presented the memorandum dated February 10, 1977 as additional evidence in her collection case against Magahis. Consequently, on April 18, 1977, a summary judgment in Civil Case No. 692-B, Priscilla Libunao-Sevilla v. Pedro Magahis, was rendered ordering Magahis to pay Sevilla the balance of the purchase price, plus interest and cost (Annex G, Petition, Rollo, pp. 53-63). Payment of the purchase price was finally completed on August 23, 1979 (Rollo, p. 113).

In 1984, petitioner Suzano Gonzales, Jr. bought the five parcels of land from Magahis with the knowledge that 51 tillers with their families are occupying the place and that these tillers are not lawful tenants as confirmed by the summary judgment against Magahis. However, he discovered that the parcels of land were already covered by certificate of land transfer in favor of the tillers, private respondents herein.

On August 28, 1984, petitioner Gonzales requested then Minister Conrado Estrella for the cancellation of the certificates of Land Transfer which had been erroneously issued to the private respondents to facilitate the transfer of the titles to his name (Annex I, Petition, Rollo, p. 68). On September 21, 1984, upon instruction of Minister Estrella, Head Executive Assistant Carlos B. Umil directed District Officer Cesar Jimenez to immediately cause the investigation of the allegation in petitioner's letter (Annex I-1, Petition, Rollo, p. 69). On October 11, 1984, Mr. Jaime dela Cruz, President of the Barangay Chapter of the ARBA in Sibul and the Samahang Nayon and also Vice-President of the ARBA Municipal Chapter of San Miguel, together with the Agrarian Reform Technologist of the Agrarian Reform Team Leader recommended that the certificates of Land Transfer issued to the occupants of the property be cancelled on the ground that "Judge Benigno M. Puno of the CFI Bulacan had finally ruled that the tillers or squatters of the land are not lawful tenants in the contemplation of the law and not entitled to security of tenure," and that the "request of Suzano F. Gonzales, Jr. be granted based on the summary Judgment given by CFI Judge Benigno M. Puno. The recommendation of Mr. de la Cruz and the technologist is based on their findings that the private respondents have cultivated their landholding without the permission from the landowner and they have not been paying any share/rentals to the landowner from the beginning up to the present and that the said tillers have been erroneously included in the Operation Land Transfer interview sheet of the Ministry of Agrarian Reform because of the failure of the DAR personnel to verify their status as non-tenants at the time of the listing (Rollo, p. 39). The team leader likewise recommended to the Regional Director the cancellation of the questioned CLTS. Accordingly, the Regional Director, in his 12th indorsement dated July 17, 1985 expressed his concurrence with the aforesaid recommendation of the Team Leader to the then Minister Estrella.

In an Order dated November 15, 1985, Minister Estrella directed the exemption of the landholdings now owned

by herein petitioner. Suzano F. Gonzales, Jr. from the coverage of the Operation Land Transfer pursuant to PD 27 and thereby recalled and cancelled the questioned CLTS erroneously issued to the private respondents (Annex B, Petition, Rollo, pp. 36-40).

On November 27, 1985, private respondents filed a letter of reconsideration alleging among others, that they had been tilling the property since 1969 (Annex J, Petition, Rollo, pp. 70-71). However on December 24, 1985, Minister Estrella issued an order denying aforesaid letter of reconsideration filed by private respondents for lack of merit (Annex K, Petition, Rollo, pp. 72-74). Thereafter a Panawagan was filed by private respondents dated January 14, 1986 (Annex L, Petition, Rollo, pp. 75-77). A few months later, private respondents filed another motion for reconsideration and/or investigation dated July 7, 1986 (Annex C, Petition, Rollo, pp. 41-45). Finally, in an order dated December 24, 1986, then Minister Heherson T. Alvarez who succeeded Minister Estrella reconsidered all the latter's previous orders by dismissing the petition and directing the reissuance of CLTS to the private respondents.

Hence, this petition.

In the resolution of March 3, 1987, the Court En Banc required respondents to comment (Rollo, p. 81). Their comment was filed on March 27, 1987 (Rollo, pp. 84-86), while the Solicitor General's comment was filed on February 12, 1988 (Rollo, pp. 111-120). In the resolution dated February 29, 1988, this Court resolved to require the petitioner to Reply (Rollo, p. 222) which was filed on April 6, 1988 (Rollo, p. 224), manifesting that he is in accord with the comment of the Solicitor General.

On April 14, 1988, this court in its resolution dated April 12, 1988 resolved to consider respondents' comment as answer to the petition and giving due course to the petition, required the parties to file their respective memoranda (Rollo, p. 225). On motion of the Solicitor General on April 29, 1988, (Rollo, pp. 226-227) the Solicitor General's comment was considered by this Court as his memorandum in the resolution of May 10, 1988 (Rollo, p. 228). On the other hand, on similar motion by the petitioner on May 13, 1988 (Rollo, p. 229) petitioner's petition was considered by this Court as his memorandum in the resolution of May 24, 1988 (Rollo, p. 231).

A motion for early decision was filed by the Petitioner on September 28, 1988 (Rollo, p. 232).

The pivotal issue of this case is whether or not public respondent acted in excess of jurisdiction and/or grave abuse of discretion in issuing the Order dated December 24, 1986, in reversing the Order of Minister Conrado Estrella dated November 15, 1985.

Petitioner argues that the private respondents cannot avail of the provisions of PD 27 for the simple reason that they are not "bona fide" tenants-farmers on the land in question. It has been held that a tenant is a person who himself and with aid available to him from within his immediate farm household cultivates the land belonging to, or possessed by another, with the latter's consent for purposes of production, sharing the produce with the landholder under the share tenancy system, or paying the landholder a price certain or ascertainable in produce or in money or both, under the leasehold tenancy system (*Vda. de Donata v. C.A.*, 61094, September 18, 1987, 154 SCRA 119). To be beneficiaries of PD 27 the tillers should be "tenants- farmers of private agricultural lands primarily devoted to rice and corn under a system of share-crop or lease tenancy", in order to be qualified to own a family-size farm. The records show that on February 10, 1977, Atty. Bartolome in his memorandum (Annex E, Rollo, p. 49) recommended to the Regional Director that the tillers are not lawful tenants of the land in question and are not entitled to security of tenure. Based on the aforesaid findings and recommendation, the Regional Director, DAR, San Fernando, Pampanga affirmed the recommendation and considered tenants as intruders, thereby violating Department Circular No. 8, Item 4 (a) (Annex F, Rollo, p. 52). As can be deduced from the aforesaid records, the affidavit of the tiller shows they were able to work in their respective farmlots without the

concurrence and/or consent of the landowner or any of his representatives and that they gave their alleged shares to the Samahang Nayon on the ground that the landowner refused and failed to accept said rentals. This was corroborated by the previous finding of the DAR Team Office at San Miguel, Bulacan to the effect that the tenants-tillers entered the subject property without the knowledge of the landowner. On the aforesaid memorandum, Atty. Camilo Nisce, acting on behalf of the Regional Director concurred with the said findings and recommendation. It has been ruled that Tenancy cannot be created nor depend upon what the alleged tenant does on the land. Consent of the landowner is necessary and tenancy cannot be formed where the alleged tenant does not pay any rental or share of harvest to the landowners (*Hilario v. IAC*, 148 SCRA 573 [1987]).

In the case at bar, it will be observed that the consent of the landowner was not obtained. As ruled by this Court, tenancy relationship can only be created with the consent of the true and lawful landholder through lawful means and not by imposition or usurpation (*Hilario v. IAC*, supra); so that mere cultivation of the land by a usurper cannot confer upon him any legal right to work the land as tenant and enjoy the protection of security of tenure of the law (*Spouses Tiongson v. CA*, 130 SCRA 482 [1984]; *Hilario v. IAC*, supra). Tenancy is not a purely factual relationship dependent on what the alleged tenant does upon the land. It is also a legal relationship. The intent of the parties, the understanding when the farmer is installed, and their written agreements, which are complied with and are not contrary to law, are even more important (*Tuazon v. C.A.*, 118 SCRA 484 [1982]).

Moreover, the requirements set by law for the existence of tenancy relationship have not been met by private respondents in subject case, such as: (1) that the parties are the landholder and tenant; (2) that subject land is agricultural land; (3) that there is consent; (4) that the purpose is agricultural production; and (5) that there is consideration (*Vda. de Donato v. CA*, supra; *Hilario v. IAC*, supra). Hence, PD No. 27 cannot apply to private respondents. PD No. 27 and PD No. 316 apply and operate only to bonafide tenants-farmers (*Elena Vda. de Reyes v. CA*, 146 SCRA 230 [1986]; *Geronimo v. CA*, 121 SCRA 859 [1983]; *Jacinto v. CA*, 87 SCRA 263 [1978]).

Furthermore, Civil Case No. 692-B *Priscilla Libunao-Sevilla v. Magahis* was referred by the trial court to the Department of Agriculture and Natural Resources invoking as it does the ejectment of persons from the landholdings and on the basis of the findings of the latter, the trial court rendered a summary judgment. In the case of *Evangelista v. CA*, 158 SCRA 141 [1988] this Court ruled that the finding that petitioner was not a bonafide tenant-farmer on the land based on evidence is final and conclusive. In addition, in agrarian cases, all that is required is submission of "substantial evidence" not preponderance of evidence (*Bagsican v. CA*, 111 SCRA 226 [1986]. Administrative findings of facts are sufficient if supported by substantial evidence in the record (*Police Commission v. Lood*, 127 SCRA 737; *Antonio v. Estrella*, 156 SCRA 68 [1987]; *Castillo v. Napolcom Adjudication Board*, 156 SCRA 274 [1987]). It is an elementary rule that the findings of administrative agencies are generally accorded great respect and finality (*SSS v. CA* 156, SCRA 383 [1987] *Rosario Bros Inc. v. Ople*, 131 SCRA 74 [1984]; *Special Events & Central Shipping Officer Workers Union v. San Miguel*, 122 SCRA 557 [1983]) except when such findings and conclusions are not supported by substantial evidence or constitute grave abuse of discretion (*Franklin Baker Company of the Phil. v. Trajano*, 157 SCRA 423 [1988]; *Baby Bus Inc. v. Minister of Labor*, 158 SCRA 225 [1988]). Such circumstances are however not obtaining in the case at bar. Furthermore, the concept of "Social Justice" was not meant to perpetuate an injustice to the landowner-lessor (*Cabatan v. CA*, 95 SCRA 232 [1980]).

PREMISES CONSIDERED, the petition is hereby GRANTED. The Order dated December 24, 1986 affirming the erroneous issuance of the CLTs is hereby ANNULLED and SET ASIDE. The Orders dated November 15, 1985, December 24, 1985 and March 17, 1986, directing the cancellation of the questioned CLTs are hereby REINSTATED.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

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