

YOLANDA CABALLES, PETITIONER, VS. DEPARTMENT OF AGRARIAN REFORM, HON. HEHERSON T. ALVAREZ AND BIENVENIDO ABAJON, RESPONDENTS.*G.R. No. 78214. December 05, 1988*

Ponente: SARMIENTO, J.

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Before us is a petition for certiorari seeking the annulment of an Order issued by the public respondent Ministry of Agrarian Reform (MAR), now the Department of Agrarian Reform (DAR), through its then Minister, the Hon. Heherson Alvarez, finding the existence of a tenancy relationship between the herein petitioner and the private respondent and certifying the criminal case for malicious mischief filed by the petitioner against the private respondent as not proper for trial.

The facts as gathered by the MAR are as follows:

The landholding subject of the controversy, which consists of only sixty (60) square meters (20 meters x 3 meters) was acquired by the spouses Arturo and Yolanda Caballes, the latter being the petitioner herein, by virtue of a Deed of Absolute Sale dated July 24, 1978 executed by Andrea Alicaba Millenes. This landholding is part of Lot No. 3109-C, which has a total area of about 500 square meters, situated at Lawa-an, Talisay, Cebu. The remainder of Lot No. 3109-C was subsequently sold to the said spouses by Macario Alicaba and the other members of the Millenes family, thus consolidating ownership over the entire (500-square meter) property in favor of the petitioner.

In 1975, before the sale in favor of the Caballes spouses, private respondent Bienvenido Abajon constructed his house on a portion of the said landholding, paying a monthly rental of P2.00 to the owner, Andrea Millenes. The landowner likewise allowed Abajon to plant on a portion of the land, agreeing that the produce thereof would be shared by both on a fifty-fifty basis. From 1975-1977, Abajon planted corn and bananas of the landholding. In 1978, he stopped planting corn but continued to plant bananas and camote. During those four years, he paid the P2.00 rental for the lot occupied by his house and delivered 50% of the produce to Andrea Millenes.

Sometime in March 1979, after the property was sold, the new owners, Arturo and Yolanda Caballes, told Abajon that the poultry they intended to build would be close to his house and persuaded him to transfer his dwelling to the opposite or southern portion of the landholding. Abajon offered to pay the new owners rental on the land occupied by his house, but his offer was not accepted. Later, the new owners asked Abajon to vacate the premises, saying that they needed the property. But Abajon refused to leave. The parties had a confrontation before the Barangay Captain of Lawa-an in Talisay, Cebu but failed to reach an agreement. All the efforts exerted by the landowners to oust Abajon from the landholding were in vain as the latter simply refused to budge.

On April 1, 1982, the landowner, Yolanda Caballes, executed an Affidavit stating that immediately after she reprimanded Abajon for harvesting bananas and jackfruit from the property without her knowledge, the latter, with malicious and ill intent, cut down the banana plants on the property worth about P50.00. A criminal case for

malicious mischief was filed against Abajon and which was docketed as Criminal Case No. 4003. Obviously, all the planting on the property, including that of the banana plants, had been done by Abajon. On September 30, 1982, upon motion of the defense in open court pursuant to PD 1038, the trial court ordered the referral of the case to the Regional Office No. VII of the then MAR for a preliminary determination of the relationship between the parties. As a result, the Regional Director of MAR Region VII, issued a certification[1] dated January 24, 1983, stating that said Criminal Case No. 4003 was not proper for hearing on the bases of the following findings:

That herein accused is a bona-fide tenant of the land owned by the complaining witness, which is devoted to bananas;

That this case is filed patently to harass and/or eject the tenant from his farmholding, which act is prohibited by law; and

That this arose out of or is connected with agrarian relations.

From the said certification, the petitioner appealed to the then MAR, now the respondent DAR. Acting on said appeal, the respondent DAR, through its then Minister Conrado Estrella, reversed the previous certification in its Order[2] of February 3, 1986, declaring Criminal Case No. 4003 as proper for trial as "the land involved is a residential lot consisting of only 60 square meters whereon the house of the accused is constructed and within the industrial zone of the town as evinced from the Certification issued by the Zoning Administrator of Talisay, Cebu."

Upon motion for reconsideration filed by Abajon, the respondent DAR, through its new Minister, herein respondent Heherson Alvarez, issued an Order[3] dated November 15, 1986, setting aside the previous Order dated February 3, 1986, and certifying said criminal case as not proper for trial, finding the existence of tenancy relationship between the parties, and that the case was designed to harass the accused into vacating his tillage.

In the summary investigation conducted by the DAR, the former landowner, Andrea Millenes, testified that Bienvenido Abajon dutifully gave her 50% share of the produce of the land under his cultivation. The grandson of Andrea Millenes, Roger Millenes, corroborated the testimony of the former, stating that he received said share from Abajon. Roger Millenes further testified that the present owners received in his presence a bunch of bananas from the accused representing 1/2 or 50% of the two bunches of bananas gathered after Caballes had acquired the property.[4]

From these factual findings, the DAR concluded that Abajon was a tenant of Andrea Millenes, the former owner, who had testified that she shared the produce of the land with Abajon as tiller thereof.[5] Thus, invoking Sec. 10 of RA 3844, as amended, which provides that "[T]he agricultural leasehold relation under this Code shall not be extinguished by mere expiration of the term or period in a leasehold contract nor by the sale, alienation or transfer of the legal possession of the landholding"; and that "(I)n case the agricultural lessor sells, alienates or transfers the legal possession of the landholding, the purchaser or transferee thereof shall be subrogated to the rights and substituted to the obligations of the agricultural lessor," the MAR ruled that "the new owners are legally bound to respect the tenancy, notwithstanding their claim that the portion tilled by Abajon was small, consisting merely of three (3) meters wide and twenty (20) meters long, or a total of sixty (60) square meters." [6]

Hence, this petition for certiorari alleging that:

- Respondents DAR and Hon. Heherson T. Alvarez committed "grave abuse of power and discretion amounting to lack of jurisdiction" in holding that private respondent Abajon is an agricultural tenant even if he is cultivating only a 60-square meter (3 x 20 meters) portion of a commercial lot of the petitioner.
- Public respondents gravely erred in holding that Criminal Case No. 4003 is not proper for trial and hearing by

the court.[7]

We hold that the private respondent cannot avail of the benefits afforded by RA 3844, as amended. To invest him with the status of a tenant is preposterous.

Section 2 of said law provides:

It is the policy of the State:

(1) To establish cooperative-cultivatorship among those who live and work on the land as tillers, owner-cultivatorship and the economic family-size farm as the basis of Philippine agriculture and, as a consequence, divert landlord capital in agriculture to industrial development;

x x x x x x x x

RA 3844, as amended, defines an economic family-size farm as "an area of farm land that permits efficient use of labor and capital resources of the farm family and will produce an income sufficient to provide a modest standard of living to meet a farm family's needs for food, clothing, shelter, and education with possible allowance for payment of yearly installments on the land, and reasonable reserves to absorb yearly fluctuations in income." [8]

The private respondent only occupied a miniscule portion (60 square meters) of the 500-square meter lot. Sixty square meters of land planted to bananas, camote, and corn cannot by any stretch of the imagination be considered as an economic family-size farm. Surely, planting camote, bananas, and corn on a sixty-square meter piece of land can not produce an income sufficient to provide a modest standard of living to meet the farm family's basic needs. The private respondent himself admitted that he did not depend on the products of the land because it was too small, and that he took on carpentry jobs on the side.[9] Thus, the order sought to be reviewed is patently contrary to the declared policy of the law stated above.

The DAR found that the private respondent shared the produce of the land with the former owner, Andrea Millenes. This led, or misled, the public respondents to conclude that a tenancy relationship existed between the petitioner and the private respondent because, the public respondents continue, by operation of Sec. 10 of R.A. 3844, as amended, the petitioner-new owner is subrogated to the rights and substituted to the obligations of the supposed agricultural lessor (the former owner).

We disagree.

The essential requisites of a tenancy relationship are:

- The parties are the landowner and the tenant;
- The subject is agricultural land;
- There is consent;
- The purpose is agricultural production;
- There is personal cultivation; and
- There is sharing of harvests.

All these requisites must concur in order to create a tenancy relationship between the parties. The absence of one does not make an occupant of a parcel of land, or a cultivator thereof, or a planter thereon, a de jure tenant. This is so because unless a person has established his status as a de jure tenant, he is not entitled to security of tenure nor is he covered by the Land Reform Program of the Government under existing tenancy laws.[10]

Therefore, the fact of sharing alone is not sufficient to establish a tenancy relationship. Certainly, it is not unusual for a landowner to accept some of the produce of his land from someone who plants certain crops thereon. This is a typical and laudable provinciano trait of sharing or patikim, a native way of expressing gratitude for favor received. This, however, does not automatically make the tiller-sharer a tenant thereof specially when the area tilled is only 60, or even 500, square meters and located in an urban area and in the heart of an industrial or commercial zone at that. Tenancy status arises only if an occupant of a parcel of land has been given its possession for the primary purpose of agricultural production. The circumstances of this case indicate that the private respondent's status is more of a caretaker who was allowed by the owner out of benevolence or compassion to live in the premises and to have a garden of some sort at its southwestern side rather than a tenant of the said portion.

Agricultural production as the primary purpose being absent in the arrangement, it is clear that the private respondent was never a tenant of the former owner, Andrea Millenes. Consequently, Sec. 10 of RA 3844, as amended, does not apply. Simply stated, the private respondent is not a tenant of the herein petitioner.

Anent the second assignment of error, the petitioner argues that since Abajon, is not an agricultural tenant, the criminal case for malicious mischief filed against him should be declared as proper for trial so that proceedings in the lower court can resume.

Notwithstanding our ruling that the private respondent is not a tenant of the petitioner, we hold that the remand of the case to the lower court for the resumption of the criminal proceedings is not in the interest of justice. Remand to the Municipal Court of Talisay, Cebu, would not serve the ends of justice at all, nor is it necessary, because this High Tribunal is in a position to resolve with finality the dispute before it. This Court, in the public interest, and towards the expeditious administration of justice, has decided to act on the merits and dispose of the case with finality.[11]

The criminal case for malicious mischief filed by the petitioner against the private respondent for allegedly cutting down banana trees worth a measly P50.00 will take up much of the time and attention of the municipal court to the prejudice of other more pressing cases pending therein. Furthermore, the private respondent, will have to incur unnecessary expenses to finance his legal battle against the petitioner if proceedings in the court below were to resume. Court litigants have decried the long and unnecessary delay in the resolution of their cases and the consequent costs of such litigations. The poor, particularly, are victims of this unjust judicial dawdle. Impoverished that they are they must deal with unjust legal procrastination which they can only interpret as harassment or intimidation brought about by their poverty, deprivation, and despair. It must be the mission of the Court to remove the misperceptions aggrieved people have of the nature of the dispensation of justice. If justice can be meted out now, why wait for it to drop gently from heaven? Thus, considering that this case involves a mere bagatelle, the Court finds it proper and compelling to decide it here and now, instead of further deferring its final termination.

As found by the DAR, the case for malicious mischief stemmed from the petitioner's affidavit stating that after she reprimanded private respondent Abajon for harvesting bananas and jackfruit from the property without her knowledge, the latter, with ill intent, cut the banana trees on the property worth about P50.00. This was corroborated by a certain Anita Duaban, a friend of the petitioner, who likewise executed an affidavit to the effect that she saw the private respondent indiscriminately cutting the banana trees.[12]

The Revised Penal Code, as amended, provides that "any person who shall deliberately cause to the property of another any damage not falling within the terms of the next preceding chapter shall be guilty of malicious mischief." [13]

The elements of the crime of malicious mischief are:

- The offender deliberately caused damage to the property of another;
- The damage caused did not constitute arson or crimes involving destruction;
- The damage was caused maliciously by the offender.

After a review of the facts and circumstances of this case, we rule that the aforesaid criminal case against the private respondent be dismissed.

The private respondent can not be held criminally liable for malicious mischief in cutting the banana trees because, as an authorized occupant or possessor of the land, and as planter of the banana trees, he owns said crops including the fruits thereof. The private respondent's possession of the land is not illegal or in bad faith because he was allowed by the previous owners to enter and occupy the premises. In other words, the private respondent worked the land in dispute with the consent of the previous and present owners. Consequently, whatever the private respondent planted and cultivated on that piece of property belonged to him and not to the landowner. Thus, an essential element of the crime of malicious mischief, which is "damage deliberately caused to the property of another," is absent because the private respondent merely cut down his own plantings.

WHEREFORE, the Order of public respondents dated November 15, 1986 is SET ASIDE and Criminal Case No. 4003, is hereby DISMISSED. Let a copy of this decision be sent to the Municipal Trial Court of Talisay, Cebu for appropriate action. This Decision is IMMEDIATELY EXECUTORY.

No costs.

SO ORDERED.

Melencio-Herrera, (Chairperson), Paras, Padilla, and Regalado, JJ., concur.

[1] Rollo, 11.

[2] Id., 12.

[3] Id., 13-17.

[4] Id., 15.

[5] Id., 16.

[6] Rollo, 16.

[7] Petition for Certiorari, 3-4; Id., 6-7.

[8] Section 166 (20).

[9] Petition's Reply Memorandum; Id., 67.

[10] Tiongson vs. CA, No. L-62626, July 18, 1984, 130 SCRA 482.

[11] Lianga Bay Logging Co., Inc. vs. CA and Muyco, No. L-37783, January 28, 1988; Francisco, et al. vs. The City of Davao, et al., No. L-20654, December 24, 1964, 12 SCRA 628; Republic vs. Security Credit and Acceptance Cor., et al., No. L-27802, October 26, 1968, 25 SCRA 641.

[12] MAR Order dated November 15, 1986, 3; Rollo, 15.

[13] Article 327, Revised Penal Code, as amended.

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