

ROSALINA BONIFACIO, SURVIVING WIFE; AND CHILDREN GABRIEL, PONCIANO, TIBURCIO, BEATRIZ, GENEROSA, SILVERIA, LEONARDO, FELOMENA, ENCARNACION AND LEONILA, ALL SURNAMED BONIFACIO, P...

G.R. No. 79416. September 05, 1989

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

The issue raised in the instant petition for certiorari certified to us by the Court of Appeals in its resolution[1] dated November 28, 1986 in CA-G.R. SP No. 10033 as involving a pure question of law is phrased by petitioners, thus:

"WHETHER OR NOT, THE FAVORABLE JUDGMENT OBTAINED BY THE DECEDENT IS INHERITED BY THE COMPULSORY HEIRS, THEREBY VESTING TO THE LATTER, ALL THE RIGHTS CONFERRED BY THE JUDGMENT TO (sic) THE DECEDENT." [2]

The favorable judgment adverted to by petitioners traces its origin to the complaint filed on July 1, 1968 by Olimpio Bonifacio before the then Court of Agrarian Relations, Fifth Regional District, Branch I-A of Baliwag, Bulacan, seeking the ejectment of private respondent Pastora San Miguel from Bonifacio's two-hectare agricultural land situated at Patubig, Marilao, Bulacan and covered by Transfer Certificate of Title No. T-27298. The ground relied upon therefor was personal cultivation under Section 36 (1) of R. A. 3844, otherwise known as the Agricultural Land Reform Code (CAR Case No. 2160-B '68).

After trial on the merits, judgment was rendered therein on September 18, 1970 by Judge Manuel Jn. Serapio:

"1. Granting authority to plaintiff OLIMPIO BONIFACIO to eject defendant PASTORA SAN MIGUEL from the landholding in question situated at Patubig, Marilao, Bulacan with an area of two (2) hectares, more or less, and consequently, ordering said defendant to vacate the same landholding and deliver possession thereof to said plaintiff for the latter's personal cultivation, subject to the provisions of Section 25 of R. A. 3844; and

"2. Dismissing all other claims and counterclaims of the parties." [3]

On appeal by private respondent Pastora San Miguel, the Court of Appeals[4] modified said judgment with respect to her counterclaim by ordering Olimpio Bonifacio to pay her the amount of P1,376.00. The judgment was affirmed in all other respects.[5]

Still dissatisfied, private respondent Pastora San Miguel sought relief from this Court. During the pendency of her petition, on August 7, 1983, Olimpio Bonifacio died. As no notice of such death was given to the Court, no order for the substitution of his heirs was made. On July 31, 1985, the Court En Banc resolved to deny private respondent's petition for lack of merit and to affirm the decision of the Court of Appeals.[6]

Subsequently, petitioners Rosalina Bonifacio, as surviving wife, and Gabriel, Ponciano, Tiburcio, Beatriz,

Generosa, Silveria, Leonardo, Felomena, Encarnacion and Leonila all surnamed Bonifacio, as children and heirs of Olimpio Bonifacio, moved for the execution of the decision in CAR Case No. 2160-B '68 before the respondent Regional Trial Court of Bulacan. A writ of execution was issued on February 20, 1986 and on March 6, 1986, the Deputy Sheriff submitted his Report (Partial Delivery of Possession), stating in part that except for a portion thereof occupied by the house of Pastora San Miguel which the latter refused to vacate, he had delivered the land subject matter of the action to Rosalina Bonifacio as surviving wife of Olimpio Bonifacio.

Thereafter, private respondent Pastora San Miguel moved to quash the writ of execution. This was opposed by petitioners who in turn sought the issuance of a writ of demolition and an order declaring Pastora San Miguel in contempt of court for allegedly re-entering the subject land.

After hearing, respondent Judge Natividad G. Dizon issued a resolution on July 15, 1986, the dispositive portion of which reads:

"WHEREFORE, the implementation of the writ of execution of the Decision dated September 18, 1970 made by the Sheriff of this Court, per directive contained in our Order of February 18, 1986, is hereby declared null and void; the "Motion for Demolition" filed by plaintiff is hereby denied; and, the "Petition for Contempt" likewise denied.

"SO ORDERED." [7]

Petitioners assail this resolution in the petition for certiorari filed before the Court of Appeals, which as stated earlier, was certified to us pursuant to Section 9 (3) of Batas Pambansa Blg. 129 in relation to Section 5 (2) [e], Art. X of the 1973 Constitution and Rule 50, Sec. 3 of the Revised Rules of Court.

Petitioners contend that respondent judge committed grave abuse of discretion tantamount to lack of jurisdiction in ruling that the decision in CAR Case No. 2160-B '68 can no longer be executed as said action is purely personal in character and therefore cannot, upon Olimpio Bonifacio's death, be inherited by his heirs. They assert that CAR Case No. 2160-B '68, being an ejectment case and not one of those specifically provided by law to be purely personal, survives the death of a party. Furthermore, as under Rule 39, Section 49 (b) of the Rules of Court, a judgment is binding not only upon the parties but also on their successors-in-interest, petitioners are entitled to enforce the decision in CAR Case No. 2160-B '68.

Private respondent, on the other hand, places stress on the fact that the action under consideration is not an ordinary ejectment case but an agrarian case for the ejectment of an agricultural lessee. She theorizes that the right being asserted in the action is personal to Olimpio Bonifacio, which necessarily died with him. She further contends that the non-substitution of Olimpio Bonifacio by his heirs rendered the proceedings taken after his death null and void. She also points to certain supervening events which allegedly prohibit execution of the judgment in CAR Case No. 2160-B '68, to wit: the amendment of Section 36 (1), R.A. 3844 by R. A. No. 6389 and 2) the promulgation of P.D. No. 27.

Private respondent is correct in characterizing CAR Case No. 2160-B '68 as more than an ordinary ejectment case. It is, indeed, an agrarian case for the ejectment of an agricultural lessee, which in the light of the public policy involved, is more closely and strictly regulated by the State. This factor, however, does not operate to bar the application to the instant case of the general rule that an ejectment case survives the death of a party.[8]

Much of the problem lies in the term "personal cultivation" by which the ground for ejectment under Section 36 (1) of R. A. 3844 was loosely referred. As it is, the term gave the impression that the ejectment of an agricultural lessee was allowed only if and when the landowner-lessor and no other opted to cultivate the landholding; thereby giving rise to a bigger misconception that the right of cultivation pertained exclusively to the landowner-lessor,

and therefore his personal right alone. A reading of Section 36 (1), R.A. 3844 however readily demonstrates the fallacy of this interpretation. Said section provides:

"Sec. 36. Possession of Landholding; Exceptions. - Notwithstanding any agreement as to the period or future surrender of the land, an agricultural lessee shall continue in the enjoyment and possession of his landholding except when his dispossession has been authorized by the Court in a judgment that is final and executory if after due hearing it is shown that:

"(1) The agricultural lessor-owner or a member of the immediate family will personally cultivate the landholding or will convert the landholding, if suitably located, into residential, factory, hospital or school site or other useful non-agricultural purposes x x x."

Under this provision, ejectment of an agricultural lessee was authorized not only when the landowner-lessor desired to cultivate the landholding, but also when a member of his immediate family so desired. In so providing, the law clearly did not intend to limit the right of cultivation strictly and personally to the landowner but to extend the exercise of such right to the members of his immediate family. Clearly then, the right of cultivation as a ground for ejectment was not a right exclusive and personal to the landowner-lessor. To say otherwise would be to put to naught the right of cultivation likewise conferred upon the landowner's immediate family members.

The right of cultivation was extended to the landowner's immediate family members evidently to place the landowner-lessor in parity with the agricultural lessee who was (and still is) allowed to cultivate the land with the aid of his farm household. In this regard, it must be observed that an agricultural lessee who cultivates the landholding with the aid of his immediate farm household is within the contemplation of the law engaged in "personal cultivation".

Thus, whether used in reference to the agricultural lessor or lessee, the term "personal cultivation" cannot be given a restricted connotation to mean a right personal and exclusive to either lessor or lessee. In either case, the right extends to the members of the lessor's or lessee's immediate family members.

Petitioners are not only the heirs and successors-in-interest, but the immediate family members of the deceased landowner-lessor as well. The right to cultivate the landholding asserted in CAR Case No. 2160-B '68 not being a purely personal right of the deceased landowner-lessor, the same was transmitted to petitioners as heirs and successors-in-interest. Petitioners are entitled to the enforcement of the judgment in CAR Case No. 2160-B '68.

Rules of procedure make it the duty of the attorney to inform the court promptly of his client's death, incapacity or incompetency during the pendency of the action and to give the name and residence of his executor, administrator, guardian or other legal representative.[9] In case of a party's death, the court, if the action survives, shall then order upon proper notice the legal representatives of the deceased to appear and to be substituted for the deceased within a period of 30 days or within such time as may be granted.[10]

In the case at bar, Olimpio Bonifacio's death during the pendency of private respondent's petition was not communicated to the Court. As ruled by this Court in the case of Florendo, Jr. vs. Coloma, supra, involving substantially the same facts and issue:

"x x x The petitioners challenge the proceeding in the Court of Appeals after the death of the plaintiff-appellant Adela Salindon. They are of the opinion that since there was no legal representative substituted for Salindon after her death, the appellate court lost its jurisdiction over the case and consequently, the proceedings in the said court are null and void. This argument is without merit.

"There is no dispute that an ejectment case survives the death of a party. The supervening death of plaintiff-appellant Salindon did not extinguish her civil personality (Republic v. Bagtas, 6 SCRA 242; Vda. de Haberes v. Court of Appeals, 104 SCRA 534). x x x

"x x x x x x x x

"In the case at bar, Salindon's counsel after her death on December 11, 1976 failed to inform the court of Salindon's death. The appellate court could not be expected to know or take judicial notice of the death of Salindon without the proper manifestation from Salindon's counsel. In such a case and considering that the supervening death of appellant did not extinguish her civil personality, the appellate court was well within its jurisdiction to proceed as it did with the case. There is no showing that the appellate court's proceedings in the case were tainted with irregularities."

Private respondent's challenge against the proceedings held after Olimpio Bonifacio's death cannot therefore be needed.

Neither can private respondent derive comfort from the amendment of Section 36 (1) of R. A. 3844 by Section 7 of R. A. No. 6389[11] and the promulgation of P.D. No. 27. [12] In *Nilo v. Court of Appeals*, G.R. No. L-34586, April 2, 1984, 128 SCRA 519, we categorically ruled that both R.A. No. 6389 and P.D. No. 27 cannot be applied retroactively under the general rule that statutes have no retroactive effect unless otherwise provided therein.

There being no cogent reason to nullify the implementation of the writ of execution in CAR Case No. 2160-B '68, respondent judge acted with grave abuse of discretion in having done so. The writ prayed for should issue.

WHEREFORE, the petition is GRANTED. The assailed resolution dated July 15, 1986 is hereby set aside. The immediate execution of the decision in CAR Case No. 2160-B '68 is ordered. This decision is immediately executory. No pronouncement as to costs.

SO ORDERED.

Gutierrez, Jr., Bidin, and Cortes, JJ., concur.
Feliciano, J., on leave.

[1] Penned by Associate Justice Celso L. Magsino; concurred in by Associate Justices Serafin E. Camilon and Manuel C. Herrera.

[2] Rollo, p. 2.

[3] Rollo, p. 25.

[4] Decision promulgated on March 6, 1973 in CA-G.R. No. 46549-R penned by Justice Antonio G. Lucero and concurred in by then CA Justices Cecilia Munoz-Palma and Guillermo S. Santos.

[5] Rollo, p. 35.

[6] Rollo, p. 36.

[7] Rollo, p. 17.

[8] *Florendo, Jr. vs. Coloma*, G.R. No. 60544, May 19, 1984, 129 SCRA 304.

[9] Sec. 16, Rule 16, Rules of Court.

[10] Sec. 17, Rule 3, Rules of Court.

[11] Section 36(1) of R.A. 3844 was amended by Sec. 7 of R.A. No. 6389 to read:

"(1)The landholding is declared by the department head upon recommendation of the National Planning

Commission to be suited for residential, commercial, industrial or some other urban purposes: Provided, That the agricultural lessee shall be entitled to disturbance compensation equivalent to five times the average of the gross harvests on his landholding during the last five preceding calendar years," thereby eliminating personal cultivation as a ground for the ejectment of a tenant/lessee.

[12] P.D. No. 27 decreed the emancipation of the tenant from the bondage of the soil, transferred to him the ownership of the land he tills and provided for the instruments and mechanisms for such transfer.

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